



**CORVALLIS
CITY COUNCIL AGENDA**

**April 4, 2011
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 21, 2011
 - 2. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Citizens Advisory Commission on Transit – March 9, 2011
 - b. Commission for Martin Luther King, Jr. – March 22, 2011
 - c. Economic Development Commission – March 14, 2011
 - d. Planning Commission – February 2 and 16, 2011
- B. Confirmation of Appointments to Boards, Commissions, and Committees (Citizens Advisory Commission on Civic Beautification and Urban Forestry - Brewer; Community Police Review Board - Landforce; Downtown Commission - Henry)
- C. Announcement of Vacancy on Bicycle and Pedestrian Advisory Commission (Toy)
- D. Announcement of Appointment to Community Police Review Board (Calhoun)
- E. Approval of an application for a Full On-Premises Sales liquor license for Jeb Dunlap and Justus Seely, owners of "Nails Like Justus," dba "Jack Okole's," 140 NW Third Street (New Outlet)

- F. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(d) (status of labor negotiations)

III. ITEMS REMOVED FROM CONSENT AGENDA

IV. UNFINISHED BUSINESS

- A. Deliberations relating to the Brooklane Heights Conceptual and Detailed Development Plan and Tentative Subdivision Plat (PLD06-00018, SUB06-00006 – Brooklane Heights) storm water design [direction]
- B. City Legislative Committee – March 23, 2011
ACTION: A resolution relating to single-use plastic bags, to be read by the City Attorney [direction]

V. MAYOR, COUNCIL, AND STAFF REPORTS

- A. Mayor's Reports
 - 1. Proclamation of Fair Housing Month – April 2011 [information]
- B. Council Reports
- C. Staff Reports
 - 1. Council Request Follow-up Report – March 31, 2011 [information]
 - 2. City Manager recruitment update [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]

- A. Corvallis Sustainability Coalition – Re-cap of 2011 Sustainability Fair and Town Hall Meeting

VII. PUBLIC HEARINGS – 7:30 pm

- A. A public hearing to consider a Land Development Code text amendment (LDT10-00001 – FEMA floodplain maps and regulations) [direction]

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

- A. Human Services Committee – March 22, 2011
 - 1. Corvallis Arts Center Annual Report [direction]
 - 2. Public Art Selection Commission Annual Report [direction]
- B. Administrative Services Committee – None.
- C. Urban Services Committee – None.
- D. Other Related Matters
 - 1. *A resolution accepting a grant from the Oregon Arts Commission (\$4,400) for the "ARTists in the PARK" program, to be read by the City Attorney* [direction]

X. NEW BUSINESS

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 4 - 16, 2011

MONDAY, APRIL 4

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

TUESDAY, APRIL 5

- ▶ 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
- ▶ Commission for Martin Luther King, Jr. - 12:00 pm - Merryfield Meeting Room, 2300 NW Walnut Boulevard
- ▶ Downtown Commission Parking Committee - 5:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

WEDNESDAY, APRIL 6

- ▶ City Legislative Committee - 7:30 am - Cornell Meeting Room, 2300 NW Walnut Boulevard
- ▶ Administrative Services Committee - 4:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ Corvallis-Benton County Public Library Board - 7:30 pm - Library Board Room, 645 NW Monroe Avenue

THURSDAY, APRIL 7

- ▶ Urban Services Committee - 5:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ Committee for Citizen Involvement - 7:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

FRIDAY, APRIL 8

- ▶ Bicycle and Pedestrian Advisory Commission - 7:00 am - Madison Avenue Meeting Room, 500 SW Madison Avenue

SATURDAY, APRIL 9

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

MONDAY, APRIL 11

- ▶ Economic Development Commission - 3:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

TUESDAY, APRIL 12

- ▶ Ward 1 Meeting - 7:00 pm - Ashbrook Independent School Library, 4045 SW Research Way (City sponsored)
- ▶ Historic Resources Commission - 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard

WEDNESDAY, APRIL 13

- ▶ 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 14

- ▶ Citizens Advisory Commission on Civic Beautification and Urban Forestry - 8:00 am - Parks and Recreation Conference Room, 1310 SW Avery Park Drive

SATURDAY, APRIL 16

- ▶ Government Comment Corner (Mayor Julie Manning) - 10:00 am - Library Lobby, 645 NW Monroe Avenue

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES**

March 21, 2011

SUMMARY OF DISCUSSION

| Agenda Item | Information Only | Held for Further Review | Decisions/Recommendations |
|--|---|-------------------------|--|
| Consent Agenda Pages 110-111 | | | |
| Unfinished Business 1. City Legislative Committee – March 9, 2011 Pages 111-112 | | | <ul style="list-style-type: none"> • Supported HB 3582 <u>passed U</u> • Supported HB 3017 <u>passed 7-2</u> |
| Mayor's Report 1. United Way Social Services Allocation Committee Appointment 2. Meeting with Senator Wyden 3. HB 2075 Page 112 | Yes Yes | | <ul style="list-style-type: none"> • Supported HB 2075 <u>passed U</u> |
| Council Reports 1. Peace Rally (Beilstein) 2. Benton County Commission on Children and Families (Raymond) 3. SIF Fees (Raymond) 4. Majestic Theatre Benefit (Hirsch) Page 112 | Yes Yes Yes Yes | | |
| Staff Reports 1. City Manager's Report – February 2011 2. Council Request Follow-Up Report – March 17, 2011 3. 2011-2012 City Council Goals 4. Sustainability Annual Report 5. Parks and Recreation Department Friends Organization 6. City Manager Recruitment Process, RFP 7. Downtown Commission Recommendation – Food Carts 8. EECBG Program Pages 113-115 | Yes Yes Yes Yes Yes Yes Yes | | <ul style="list-style-type: none"> • Referred to USC <u>passed U</u> |
| Items of ASC Meeting of March 9, 2011 1. Second Quarter Operating Report 2. Financial Policies Review Pages 116-117 | | | <ul style="list-style-type: none"> • Accepted Report <u>passed U</u> • Directed HSC, staff, and PNARB to include full cost recovery in fees review before fall/winter fees determination <u>passed 8-1</u> |

| Agenda Item | Information Only | Held for Further Review | Decisions/Recommendations |
|---|------------------|-------------------------------------|---|
| Items of USC Meeting of March 10, 2011 1. Systems Development Charge Annual Review 2. Three Waters Update Page 118 | Yes | | <ul style="list-style-type: none"> • RESOLUTION 2011-04 <u>passed U</u> |
| Other Related Matters 1. Municipal Code Chapter 2.15, "Sidewalk Improvements" 2. Tunison Park and Community Center Improvement Project Grant Application Page 119 | | | <ul style="list-style-type: none"> • ORDINANCE 2011-05 <u>passed 8-1</u> • RESOLUTION 2011-05 <u>passed U</u> |
| New Business 1. LDC Text Amendment – MUGC Zone Pages 119-120 | | | <ul style="list-style-type: none"> • Initiated amendment <u>passed U</u> |
| Executive Session 1. Labor Negotiations – CPOA and AFSCME 2. Performance Evaluation – City Attorney Pages 120-121 | Yes Yes | | |
| Visitors' Propositions 1. SB 536 (Higbee-Sudyka, Gaylord, Waldorf, Plybon) 2. Wild Turkeys (Sears) Pages 121-123 | | Council Request Follow-up Report | <ul style="list-style-type: none"> • Referred to CLC <u>passed 5-4</u> |
| Public Hearing 1. Brooklane Heights Pages 123-136 | | Record Held Open | |

Glossary of Terms

| | |
|--------|---|
| AFSCME | American Federation of State, County, and Municipal Employees |
| ASC | Administrative Services Committee |
| CLC | City Legislative Committee |
| CPOA | Corvallis Police Officers Association |
| EECBG | Energy Efficiency and Conservation Block Grant |
| HB | House Bill |
| HSC | Human Services Committee |
| LDC | Land Development Code |
| MUGC | Mixed-Use General Commercial |
| PNARB | Parks, Natural Areas, and Recreation Board |
| RFP | Request for Proposal |
| SB | Senate Bill |
| SIF | Sustainability Initiatives Fund |
| U | Unanimous |
| USC | Urban Services Committee |

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES**

March 21, 2011

The regular meeting of the City Council of the City of Corvallis, Oregon, was called to order at 12:00 pm on March 21, 2011, in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Manning presiding.

PLEDGE OF ALLEGIANCE

I. ROLL CALL

PRESENT: Mayor Manning, Councilors Hogg, Brown, Traber, Brauner, O'Brien, Raymond, Hirsch, Hervey, Beilstein

Mayor Manning directed Councilors' attention to items at their places, including e-mails from State Representative Gelser and Police Chief Boldizar regarding House Bill 2075 (Attachment A), letters from Benton County Board of Commissioners and League of Women Voters of Oregon regarding Senate Bill 536 (Attachment B), and items related to the City sustainability program annual report (Attachment C).

II. CONSENT AGENDA

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

- A. Reading of Minutes
1. City Council Meeting – March 7, 2011
 2. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Airport Commission – February 1, 2011
 - b. Bicycle and Advisory Commission – February 4, 2011
 - c. Committee for Citizen Involvement – January 6 and February 3, 2011
 - d. Citizens Advisory Commission on Transit – February 9, 2011
 - e. Corvallis-Benton County Public Library Board – February 2, 2011
 - f. Downtown Commission – February 9, 2011
 - g. Downtown Parking Committee – February 1, 2011
 - h. Economic Development Commission – February 22, 2011
 - i. Historic Resources Commission – February 8, 2011
 - j. Housing and Community Development Commission – February 15 and 16, 2011
 - k. Watershed Management Advisory Commission – February 16, 2011
 - l. Willamette Criminal Justice Council – February 16, 2011
- B. Announcement of vacancies on Boards and Commissions (Community Police Review Board - Lacy; Parks, Natural Areas, and Recreation Board - Buckman)

- C. Announcement of appointments to Boards and Commissions (Citizens Advisory Commission on Civic Beautification and Urban Forestry - Brewer; Community Police Review Board - Landforce; Downtown Commission - Henry)
- D. Authorization to enter into and for the City Manager to sign an Intergovernmental Agreement with Benton County for health impact assessment project
- E. Schedule a public hearing for April 18, 2011, to consider the Fiscal Year 2011-2012 Community Development Block Grant/HOME Investment Partnerships Program Action Plan
- F. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(d)(I) (status of labor negotiations; status of employment-related performance)

The motion passed unanimously.

III. ITEMS REMOVED FROM CONSENT AGENDA – None.

IV. UNFINISHED BUSINESS

- A. City Legislative Committee – March 9, 2011

Mayor Manning reported that the Committee forwarded to the Council recommendations regarding two pending legislative bills:

- House Bill 3582 – This bill would extend until 2022 the availability of Business Energy Tax Credits (BETC) to support energy facilities, along with similar legislation that may be introduced later in the Legislative Session. The City utilized BETC revenues for several energy-saving programs and services, particularly the Corvallis Transit System.
- House Bill 3017 – This bill would extend to 2025 the sunset date of Enterprise Zone programs, which would facilitate future discussions of Enterprise Zone expansions within the City Limits and Benton County.

Councilors Brauner and Hirsch, respectively, moved and seconded to support House Bill 3582 to extend until 2022 the Business Energy Tax Credit program. The motion passed unanimously.

Councilors Brauner and Hirsch, respectively, moved and seconded to support House Bill 3017 to extend to 2025 the sunset date of Enterprise Zone programs.

Councilor Beilstein expressed opposition to the motion, opining that the concept of Enterprise Zones was bad for local communities and the State's economy. He contended that the Zone established a new low floor for business investment in Oregon because all Oregon counties now had Zones offering tax incentives. He further opined that Enterprise Zones were not needed and that it would be better if the state program was discontinued at its current sunset date. He believed the local Zones should not be expanded, as they hurt the local community and favored investors. He said he would not support the Council endorsing the legislation to the State Legislature.

The motion passed seven to two, with Councilors Beilstein and Hervey opposing.

V. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

Mayor Manning reported that she appointed Councilor Raymond to represent the City in the social service allocation process facilitated by United Way of Benton and Lincoln Counties.

Mayor Manning reported that she and 15 other community leaders met with Senator Wyden to discuss legislative issues at the state and national levels.

Mayor Manning reported that, as City Legislative Committee Chair, she was asked by Chief Boldizar and City Manager Nelson to express support for House Bill 2075, which would require collection of 9-1-1 user fees from non-contract cell phone providers, as well as those with land lines. She referenced materials distributed today regarding the Bill. She said the Council was asked to take action supporting the Bill, which was progressing quickly through the State Legislature. The Bill would help create equity in the 9-1-1 user fee system to support continuing operations of the system.

Councilors Brauner and Hirsch, respectively, moved and seconded to support House Bill 2075. The motion passed unanimously.

B. Council Reports

Councilor Beilstein reported that he and approximately 100 other people attended a March 19 peace rally that commemorated the eighth anniversary of the United States of America's invasion of Iraq. He noted that the wars in Iraq and Afghanistan were paid for by citizens through federal income taxes, with an estimated cost to Corvallis citizens of \$116 million (approximately \$6,000 each for 20,000 Corvallis households, or \$500 per year). He suggested that taxpayers take action to end the wars in the Middle East, as they were impacting the local economy and livability. He noted that the American military began a bombing assault on Libya March 19, claiming humanitarian reasons for doing so.

Councilor Raymond thanked the Benton County Commission on Children and Families for the recent, successful Teen Summit. She reported that the Commission would receive one more year of State and County funding and then be re-defined and may need to seek more funding from the City.

Councilor Raymond referenced a letter from Daniel Watkins regarding the recently approved Sustainability Incentives Fund (SIF) fees. She said she supported all of the SIF fees approved by the Council, believing that infrastructure was needed. She also supported the Council's action in approving the fees. She believed the fees would benefit Corvallis citizens.

Councilor Hirsch announced an April 8 performance to benefit the Majestic Theater. The event, "Everybody Must Get Stones," would feature several local musical groups, including one of which he was a member, performing music of The Rolling Stones.

C. Staff Reports

1. City Manager's Report – February 2011

Assistant City Manager Volmert offered to answer questions regarding the Report.

2. Council Request Follow-up Report – March 17, 2011

Ms. Volmert briefly reviewed issues addressed in the Report and offered to answer questions.

3. 2011-2012 City Council goals

Ms. Volmert noted that the meeting packet included the Council-adopted goals for the term.

4. Sustainability annual report

Sustainability Supervisor Lovett noted that this was the seventh annual report regarding organizational sustainability. She explained that establishing objectives and targets was part of the effort to define how to monitor and measure progress by determining baseline indicators and setting performance requirements. Short-, mid-, and long-term targets were established for each of the five goals. During the past year, the organization reduced energy (electricity and natural gas) and water consumption and landfill waste. The goals would help staff maintain a focus on areas with the highest sustainability impact for the organization.

The first organization-wide internal audit was completed to gauge effectiveness of the Sustainability Management System and identify needed improvements. The System was the framework for all sustainability efforts. The audit included staff interviews and document reviews to evaluate activities intended to meet organizational goals and evaluate employee awareness and management's commitment to the sustainability policy and its implementation. Staff had a good general understanding of sustainability and was aware of the City's policy and program and participated in recycling efforts. Sustainable practices and projects occurred outside the formal program and were part of the daily activities of the organization. Formal channels of communication internally and to external stakeholders were good, as was upper-management's support.

The audit identified areas for improvement:

- Staff had limited understanding of social and economic sustainability and how those concepts related to their jobs and City processes. The understanding tended to focus on environmental sustainability.
- Staff had limited awareness of City-wide goals and related departmental goals and projects.
- Internal communication was deemed sporadic and inconsistent.
- Limited sustainability training was conducted since the brainstorming sessions conducted three years earlier.

From the audit, Ms. Lovett developed a communications campaign to increase employees' awareness of the sustainability issues most significant to the organization, related goals, and how staff could help meet the goals. The materials distributed for today's meeting related to internal communications efforts. Posters were developed to get employees' attention and interest.

Ms. Lovett reviewed some of the upcoming sustainability projects:

- The Climate Showcase Communities Grant in 2011 will expand the City's sustainability program outreach regarding energy.
- During 2011, the solar panels funded through the 2009 Pacific Power grant will be installed on Fire Station No. 4.
- Energy-efficient inducted lights will be installed in the Library parking garage.
- Illuminated traffic signs retrofitted with light-emitting diodes will be installed.
- More opportunities will be pursued.

Council members expressed appreciation for the efforts of Ms. Lovett and staff.

Councilor Beilstein noted that it may be more difficult to retain good employees during difficult economic conditions, and he requested more information regarding the City's employee mentoring program.

Ms. Volmert explained that the Individual Career Development Plan, which includes a coaching component, was instituted through the organization's Career Development Plan. The second group of employees was completing the program this month. The Diversity and Inclusion Steering Committee established a priority of expanding the coaching component to a mentoring program. Staff submitted an application for an Oregon State University Promise Intern to help develop the mentoring program.

In response to Councilor Traber's inquiries, Ms. Lovett said the City did not have a sustainable purchasing policy. However, sustainable purchasing and life-cycle costing aspects were included in the City's procurement manual. Staff responsible for purchasing received training on these practices, and a specific policy was being developed. The annual report reflected that this goal was not achieved; however, this was the result of staff being misinformed by State trainers that sustainable purchasing could be done. Staff will develop a generically worded goal to reflect that training would be conducted, rather than specifying who would conduct the training. The procurement manual did not address the issue of buying local. However, the City's Intranet included information regarding sustainable purchasing, which specified that local purchases for some types of things could be more sustainable, if those purchases would reduce transportation of the product. The Finance Department tracked local purchases, which were currently 70 percent of total purchases.

Councilor Hervey referenced Ms. Lovett's comment that staff tended to think more in terms of environmental sustainability. He opined that buying local could contribute to social and economic sustainability goals. He suggested that more attention be given to local purchasing.

5. Friends organization to benefit Parks and Recreation Department

Ms. Volmert noted that the Parks, Natural Areas, and Recreation Board and staff were investigating forming a non-profit friends organization. No Council action was required, unless a different tactic was desired.

6. Request for Proposals – City Manager recruitment process

Ms. Volmert reported that a request for proposals (RFP) was advertised, information was sent to eight consultants, requests for information were still being accepted, one proposal was submitted, and all proposals were due March 28. Council leadership will review the proposals and select consultants to interview. Per the timeline, a consultant should be selected by April 15.

Councilor Beilstein asked that proposals be shared with the full Council.

Ms. Volmert added that a RFP was sent to the League of Oregon Cities.

7. Downtown Commission recommendation on food carts

Ms. Volmert referenced the Downtown Commission's recommendation that the issue of food carts be referred to Urban Services Committee (USC) for review and recommendation to the Council regarding a possible Land Development Code (LDC) text amendment.

Councilors Beilstein and Brauner, respectively, moved and seconded to refer the food cart issue to Urban Services Committee for review and recommendation regarding a possible Land Development Code text amendment. The motion passed unanimously.

8. Energy Efficiency and Conservation Block Grant Program (EECBG)

Ms. Volmert announced that staff would review the EECBG projects with USC during April, including updates and alternatives identified to achieve the spending targets and deadline established by the Department of Energy. She confirmed for Councilor Hervey that the review will include the spreadsheet of the evaluations conducted last year by the Committee and stakeholders.

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

A. Human Services Committee – None.

B. Administrative Services Committee – March 9, 2011

1. Second Quarter Operating Report

Councilor Hirsch reported that the City's financial operations ended the second quarter of the fiscal year as expected.

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

2. Financial Policies Review

Councilors Hirsch and O'Brien, respectively, moved and seconded to direct Human Services Committee; Parks, Natural Areas, and Recreation Board; and Parks and Recreation Department staff to include in their financial policies review a determination of the fees necessary to recover fully loaded program costs, less donations and grants, and that the review be completed before the fall/winter program fees were determined.

Councilor Hirsch said Parks and Recreation Director Emery provided a thorough response to this issue. However, the matter was more focused on timing to ensure that the review was completed for implementation with the fall/winter program.

Councilor Traber added that Ms. Emery's memorandum discussed revising the fee structure and hiring a consultant, based upon budgeting for Fiscal Year 2011-2012. This implied that a new fee structure would not be ready until fall 2012. Human Services Committee (HSC) hoped to have a new fee structure ready by fall 2011.

Councilor Hirsch commented that youth programs would not be able to fully recover costs.

Councilor Hervey requested clarity regarding what was requested that differed from what staff previously did and what the Council would do with the new information. He expressed appreciation that HSC hoped to recover all program costs to the extent possible and use funds wisely. However, he did not want staff to pursue work that could not be implemented.

Councilor Traber responded that Administrative Services Committee (ASC) recognized that the current fee structure limited what could be charged for specific programs. The limits could be one-third to less than one-half of direct costs. He was concerned with direct versus fully loaded costs because direct costs did not include general City operational overhead costs. If direct costs were the basis for program fees, property taxes would always be needed to fund programs. He was also concerned with how quickly fee limits could be removed so staff could increase fees to accepted amounts to better recover costs. He considered two years a long time for not changing the fee policy, noting that HSC began the discussion one year ago.

Councilor Hervey reviewed that 100 percent of costs were charged for adult Parks and Recreation Department programs, but less than full costs were charged for youth and senior programs. He surmised that the fees identified by the consultant would enable HSC and staff to determine whether cost-recovery rates should be adjusted.

Councilor Traber explained that HSC was already reviewing Parks and Recreation Department fees but asked that the review process be accelerated so any fee adjustments could be implemented in Fiscal Year 2011-2012.

Councilor Beilstein opined that it would be helpful for HSC to know total program costs and which programs were being subsidized. During previous fee reviews, he did not question amounts provided by the Parks, Natural Areas, and Recreation Board (PNARB) and staff. He would like an accurate and complete accounting of direct and administrative program costs, which programs were subsidized by property taxes, and the rates of those subsidies. From the information, program cost recovery rates may remain constant or may increase, so that less property tax subsidy was needed for youth programs. True costs, including administrative costs and subsidies, were needed for an honest fee review. He would like the research completed before the next fee review.

Councilor Brown concurred with ASC's intent in proceeding with the fee review. He opined that program costs must be reviewed more objectively and soon, considering the impending budget deficit.

Councilor Hervey surmised that the Council would assign HSC to undertake a study that would provide useful information, rather than asking questions to demonstrate that the City was fiscally conservative. He understood that Osborn Aquatic Center staff undertook market research when reviewing fees and compared fees with other communities and the potential usage impacts of fees greater than a specific amount. He questioned how the simplified information of total program costs would benefit the fee review process, rather than knowing the usage impacts of higher fees.

Councilor Brown suggested that comparator studies be re-considered. He opined that the situation was not a market situation of multiple adjacent communities having aquatic centers, so developing a demand curve based upon fees would not be practical. He believed that reviewing program fees more objectively would be beneficial.

Councilor Raymond observed that the City, while striving to be fiscally responsible and efficient, was not a business and was responsible for providing services. She opined that the City should continue with its service-provision responsibilities and not attempt to "take the last penny from the child who wanted to swim."

The motion passed eight to one, with Councilor Hervey opposing.

C. Urban Services Committee – March 10, 2011

1. Systems Development Charge Annual Review

Councilor Brauner explained that systems development charge (SDC) rates were reviewed annually to ensure that the City, in conjunction with permits for new developments, collected sufficient funds for anticipated infrastructure projects that would be needed for community growth. Annual adjustments were based upon construction cost inflationary factors (for infrastructure projects) and land valuations (for parks acquisitions). For the second consecutive year, SDC rates decreased – the *Engineering News-Record* Construction Cost Index increased slightly on fees related to infrastructure, and land values decreased. The proposed SDC rates would be in the lower-mid range among comparator cities. The Committee deemed the proposed SDC rates appropriate.

Deputy City Attorney Brewer read a resolution establishing Systems Development Charge rates, per Municipal Code Chapter 2.08, "Systems Development Charge," and stating an effective date.

Councilors Brauner and Hirsch, respectively, moved and seconded to adopt the resolution.

Councilor Beilstein noted that the proposed SDC rates were near the low end among comparator cities, primarily because of the efforts of Public Works Department staff, whom he commended. Staff recognized anticipated future infrastructure needs and established the SDC process to ensure available funding. These efforts demonstrated that the community was supportive of businesses.

RESOLUTION 2011-04 passed unanimously.

2. Three Waters Update

Councilor Brauner explained that the Three Waters project was a water-conservation demonstration project at First Alternative Cooperative's South Store. The City provided \$30,000 toward the project, which would demonstrate how to reduce drinking water use, wastewater use, and storm water waste. The project was progressing well.

This item was presented for information only.

Councilor Hervey noted that the City provided the full \$30,000 grant up-front, contrary to typical procedures. The Corvallis Sustainability Coalition provided quarterly reports of funds expenditures and will return any unused funds at the end of the project.

D. Other Related Matters

1. Mr. Brewer read an ordinance amending Corvallis Municipal Code Chapter 2.15, "Sidewalk Improvements," as amended.

ORDINANCE 2011-05 passed eight to one, with Councilor Raymond opposing.

2. Mr. Brewer read a resolution authorizing the Parks and Recreation Department to proceed with a Local Government Grant application for Tunison Park and Community Center improvement project.

Councilors Hervey and Brauner, respectively, moved and seconded to adopt the resolution.

RESOLUTION 2011-05 passed unanimously.

X. NEW BUSINESS

- A. Request to initiate a Land Development Code Text Amendment to add new Commercial Uses in the Mixed Use General Commercial (MUGC) Zone

Community Development Director Gibb explained that only the Council and the Planning Commission could initiate LDC text amendments; individuals could not undertake such action. An individual applied to expand uses permitted in the Mixed-Use General Commercial (MUGC) zone. The MUGC zone was established when the Comprehensive Plan and LDC were updated several years ago. Staff needs Council or Commission approval before proceeding with a text amendment. The applicant would pay the application fee specified in the City's fee schedule to help cover the cost of processing the request. If the Council approved the amendment process, a full review would be conducted by staff, the Commission, and the Council, based upon applicable criteria. He emphasized that initiating the text amendment review would not obligate the City to approve the request; however, it would allow the City to adjust the proposal during the review process.

In response to Councilor Hervey's inquiries, Mr. Gibb said the application fee would cover approximately 70 percent of the cost of conducting the requested text amendment review. Staff did not intend to assign the request a priority above other projects; however, applications were processed before general planning work.

Councilor Hervey observed that properties zoned MUGC were not pedestrian oriented. Therefore, uses that were not pedestrian oriented would seem appropriate for the zone. He questioned how some of the uses proposed by the applicant, such as financial, insurance, and real estate services, would fit with a site that was not pedestrian oriented. He expressed concern that the requested text amendment would provide a loophole for the pedestrian-oriented design standards.

Mr. Gibb responded that staff believed a review of existing uses within the MUGC zone was warranted. Staff did not mean to imply that the applicant's proposed uses were appropriate or that changes to the permitted uses were appropriate. Through the Planning Commission

and Council review process, staff would thoroughly review the proposal, based upon review criteria.

Councilor Hervey summarized that the City would pay approximately 30 percent of the cost of the review, but staff believed the review was appropriate.

Mr. Gibb confirmed, adding that lack of an applicant interested in, and willing to pay a large portion of the cost of, pursuing a text amendment, the review might not be assigned as high a priority. The application and staff's belief that the review was warranted prompted the recommendation to proceed with the review.

Councilor Beilstein recalled that Oregon State University requested amendments to LDC Chapter 2.9, "Historic Preservation Provisions." The Council chose not to undertake the amendments. He asked how the University's request differed from the current request.

Mr. Gibb responded that OSU would have paid for its requested amendment. He said the most-comparable, recent request involved including agricultural uses in industrial zones (*Bald Hill Farms*). The Council approved proceeding with the review, understanding that the applicant would pay a portion of the review costs.

Councilor Beilstein noted that the case Mr. Gibb cited had a clear goal, and the majority of the Council supported the requested amendment. The current case did not involve existing uses; therefore, there was no apparent urgency in pursuing the review, from the City's perspective. He said he would probably support pursuing the text review.

Mr. Gibb acknowledged extensive interest in MUGC properties, and difficulties were encountered in making the applications successful. The requested amendment did not represent a wholesale approval recommendation from staff. However, staff suggested that a review was warranted to make some of the MUGC sites developable.

Councilors Brauner and O'Brien, respectively, moved and seconded to initiate a Land Development Code text amendment to address the issue of adding commercial uses to the Mixed-Use General Commercial zone. The motion passed unanimously.

(Councilor Hogg left the meeting at 1:01 pm.)

Mayor Manning 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. She 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. She 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 1:03 pm.

Ms. Volmert briefed the Council regarding the status of labor negotiations with Corvallis Police Officers Association and American Federation of State, County, and Municipal Employees

(Councilor Hogg returned to the meeting at 1:05 pm.)

Council President O'Brien reviewed his discussions with City Attorney Fewel regarding the annual performance evaluation of the City Attorney's Office and the proposed contract for legal services to the City.

Mayor Manning recessed the Council at 1:18 pm and reconvened the Council at 7:00 pm in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon.

I. ROLL CALL

PRESENT: Mayor Manning, Councilors Hogg, Brown, Traber, Brauner, O'Brien, Raymond, Hervey, Beilstein

ABSENT: Councilor Hirsch (excused)

Mayor Manning directed Councilors' attention to items at their places pertaining to the Brooklane Heights public hearing, including written testimony from Rana Foster, Susan and Jeff Morré, and Kathy Phillips (Attachment D), Conditions of Approval 20 and 27 (Attachment E), and staff's identified review criteria.

VI. VISITORS' PROPOSITIONS

Debra Higbee-Sudyka said the Marys Peak Group of the Sierra Club urged the Council to adopt a resolution the Club submitted supporting Senate Bill 536, which would ban single-use plastic check-out bags. She said plastic caused environmental problems from production through disposal, including greenhouse gas emissions, litter, ocean pollution, and harm to wildlife and marine life. The Club acknowledged that banning the bags would not solve all of the plastics problems in the environment. The Bill would remove plastic bags from landfills, support the ethic of reducing consumption of finite resources, and support re-usable bags. She said the Bill would reduce a chronic source of plastic pollution, while saving money of Oregon taxpayers and businesses.

Ms. Higbee-Sudyka noted that EcNowTech, a local company, sold a plant-based "green" plastic that was biodegradable and compostable. PepsiCo was developing a "green" plastic. She asserted that supporting Senate Bill 536 would give companies working on "green" plastic opportunity to develop. Further, it would support Corvallis jobs and reduce non-degradable plastic. Out-of-state petroleum-based plastic bag manufacturers sent lobbyists to Salem to defeat the Bill.

Ms. Higbee-Sudyka said it was difficult for Coffin Butte Landfill and Pacific Region Compost Facility to manage plastic bags, which were a major operating cost for recovery facilities. The Oregon Recyclers Association supported banning single-use plastic check-out bags. The Northwest Grocery Association also supported such a ban, along with a mandatory charge on paper bags, allowing a slight cost recovery. Several Oregon communities adopted resolutions banning the bags. The Benton County Board of Commissioners and the Oregon League of Women Voters supported Senate Bill 536, along with 148 Corvallis citizens who signed a petition.

Councilor Beilstein said he understood that Hawaii recently banned single-use plastic check-out bags and plastic produce bags. Hawaiian retailers did not seem opposed to the ban and allowed use of plant-based plastic bags; however, the bags were not compostable, and no recycling was offered. He said he was eager for plastic bags to be banned in Oregon. If the Legislature did not approve Senate Bill 536, he would suggest that the Council consider a local ordinance to limit the use of single-use plastic check-out bags. Unless the matter was urgent, he would prefer that the request be referred to the City Legislative Committee for review and recommendation to the Council.

In response to Councilor Hervey's inquiry, Ms. Higbee-Sudyka said Senate Bill 536 must emerge from a committee by the middle of April to be considered by the Senate, but the Bill did not have enough votes to emerge from the committee. Senators should be urged to support the Bill and get it out of committee for a Senate vote.

Councilor Raymond concurred with the Sierra Club's sentiment to ban single-use plastic check-out bags. She opined that a law banning the bags would remind people to use re-usable bags. She concurred with forwarding the request to the City Legislative Committee for immediate review.

John Gaylord, Conservation Chair of the Audubon Society Board of Directors, expressed support for Senate Bill 536. In his international travels, he observed Albatross adults and chicks filled with plastic, contributing to their population decline. He said petrochemical industry lobbyists were in Salem to testify against the Bill. He noted that New Zealand banned plastic check-out bags approximately 20 years ago, and retailers sold nylon mesh bags; New Zealand residents learned to carry re-usable cloth bags. He opined that community support was needed to show lobbyists that Oregonians cared about wildlife. He concurred with Ms. Higbee-Sudyka's testimony, noting that the Audubon Society shared the Sierra Club's views on this issue. He added that sea turtles and other marine animals ingested plastic bags, apparently believing the bags were jelly fish. The plastic bags became airborne and waterborne and were ingested by various wildlife.

Elizabeth Waldorf, a retired college biology professor, expressed support for the proposed resolution to support Senate Bill 536 banning single-use plastic check-out bags. She studied and taught environmental science and was aware of the world's energy situation. She opined that people were "addicted" to fossil fuels, using them at an increasing rate over the past 100 years, depleting the fossil fuel supplies. For the sake of future generations, she believed the addiction must end. She would like fossil fuels conserved for energy development, rather than used for plastic bag manufacturing. She encouraged the Council to support Senate Bill 536.

Charlie Plybon, Oregon Field Manager for Surfrider Foundation, expressed support for the resolution regarding Senate Bill 536. He urged the Council to consider the Bill before the mid-April deadline. He acknowledged extensive mis-information and confusing campaigns regarding the Bill. He said eight cities adopted resolutions supporting the Bill, and more than 500 businesses joined the Foundation's coalition supporting the Bill. The Northwest Grocers Association and the pulp and paper groups supported the Bill.

Mr. Plybon announced the 26th annual SOLV Spring Beach Clean-up March 26. The first event, entitled, "The Plague of Plastics," was prompted by two Oregon State Parks employees concerned by the amount of plastics on the beaches.

Mr. Plybon submitted additional information to the record. (Attachment F).

Peter Sears referenced the City's efforts last year to reduce the wild turkey population. He reported that eight to 12 turkeys were in his yard. He spoke with the Oregon Department of Fish and Wildlife representative, who said all of the culling permits issued to Corvallis were used, leaving no recourse options. Mr. Sears said he supported the culling permit option and suggested that it be continued so the State representative had authority to address the problem. He inquired whether the City had other options for controlling wild turkeys.

Ms. Volmert said a Council Request Follow-up Report would address Mr. Sears' inquiry.

In response to Councilor Beilstein's inquiry, Mr. Sears said the wild turkeys returned very recently, but the flock appeared to be smaller.

Councilors Brauner and O'Brien, respectively, moved and seconded to refer the issue of single-use plastic check-out bags to the City Legislative Committee.

Councilor Hervey expressed concern regarding whether the Council's action would be timely in relation to activity at the State Legislature. He expressed interest in a straw poll of Councilors' readiness to make a decision immediately. He supported the process of the City Legislative Committee reviewing issues before the Council took action; however, if the Council supported the proposed ban on plastic bags, there was no need to send it to the Committee.

Mayor Manning responded that the Committee would meet in two days. Councilor Brauner added that the Committee could present a recommendation at the April 4 Council meeting.

Councilor Traber opined that it made sense to proceed; extensive information was included in the meeting packet and presented tonight; and he would support endorsing the Senate Bill immediately, rather than waiting for the Committee's review and recommendation.

The motion passed five to four on the following roll call vote, with Mayor Manning breaking the tie vote:

Ayes: Brown, Brauner, O'Brien, Raymond, Manning

Nays: Hogg, Traber, Hervey, Beilstein

(Councilor Hervey left the meeting at 7:28 pm and returned at 7:32 pm.)

VII. PUBLIC HEARINGS

- A. A public hearing to consider a Land Use Board of Appeals remand order (PLD06-00018, SUB06-00006 – Brooklane Heights)

Mr. Brewer explained that the public hearing was limited in scope to plans for a proposed storm water system and associated grading. The public hearing was required by Conditions of Approval 20 and 27 of Council Order 2010-007, which approved the Brooklane Heights Conceptual and Detailed Development Plan and Tentative Subdivision Plat. The public hearing process would be the same as before, but the Council would consider only the two issues. He added that the public hearing would not entail a comprehensive review of the entire application and would focus only on the two cited issues, which resulted from a

decision remanded from the Land Use Board of Appeals (LUBA). He reviewed that the LUBA deemed that too much discretion was left for staff, and the discretion should be exercised by the Council.

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

Declarations of Conflicts of Interest – None.

Declarations of Ex Parte Contacts

Councilor O'Brien reported that, after receiving his meeting packet Thursday, he spent a significant amount of time with the applicant's representative, Scott Wright, at a social gathering Councilor O'Brien hosted. He did not discuss with Mr. Wright the public hearing issue or any other issue that may be presented to the Council.

Declarations of Site Visits – None.

Objections on Jurisdictional Grounds – None.

Staff Overview

Associate Planner Richardson reviewed that the Brooklane Heights proposed development would encompass almost 26 acres, which were undeveloped, other than an underground sanitary sewer line along the western and southwestern boundaries and a small, gravel access near the southwest corner. He reviewed the location of the development site. He said the Council approved the development application in 2010 with Conditions of Approval.

Condition of Approval 20 required the applicant to submit materials to be reviewed during a public hearing process demonstrating that the proposed water quality facilities were consistent with Comprehensive Plan Policy 4.11.12 and that the storm water facilities complied with criteria in Appendix F of the Corvallis Storm Water Master Plan (SWMP) and applicable criteria in the King County, Washington, Surface Water Design Manual (KCWSWDM).

Condition of Approval 27 required that areas not previously approved for mass grading be reviewed through a public hearing process to determine whether the grading would be consistent with Comprehensive Plan Policy 4.6.7 regarding hillside development.

Mr. Richardson said the applicant submitted and requested review of storm water facility and grading plans through the public hearing process, as required by Conditions of Approval 20 and 27. The Council was asked to review the materials and determine whether they satisfied Conditions of Approval 20 and 27 of the Council's 2010 Order.

Mr. Brewer 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 Presentation

Scott Wright, representing the applicant, reviewed the application history via a PowerPoint presentation. (Attachment G) He asserted that the storm water design exceeded a typical design for the permitted construction drawings for this stage of the project. City staff reviewed several revisions of the design. He contended that the Comprehensive Plan served as the City-approved guidance for development but did not constitute criteria. He said the LDC served as development criteria. He quoted from the Comprehensive Plan, "The LDC also ensures that development is in all respects consistent with the goals and policies of the Corvallis Comprehensive Plan."

Mr. Wright referenced the existing drainage ditch southeast of SW Brooklane Drive (Brooklane), noting that it was developed to drain adjacent wetlands. Public infrastructure was constructed in Brooklane in conjunction with other sub-division developments. Existing outfalls transferred storm water runoff to the drainage ditch. The applicant proposed connecting to existing public infrastructure at three points and did not propose any changes to the existing public infrastructure locations. Therefore, storm water flow patterns would not be altered. The applicant would attempt to mitigate for peak storm water flows, maintaining existing peak flows. Storm water detention vaults would hold water for gradual release. For a ten-year storm event, the flow would be approximately .5 cubic feet per second (cfs). If the property was developed without storm water detention or peak-flow mitigation, the ten-year storm event run-off would be closer to 3 cfs. Restictor plates would limit water flow from the large detention vaults, reducing to less than .5 cfs the anticipated storm water flow from the largest of the three vaults.

Mr. Wright summarized that the applicant was required to detain on-site the two, five, and ten-year storm water peak flows from the development. However, the applicant's proposal would be closer to the detention needed to minimize water flows from a 100-year storm event. This represented a significant reduction in existing storm water flow conditions. He reviewed that storm water flows would not change from those of existing public infrastructure.

Mr. Wright said the applicant's underground storm water filter system would remove 80 percent of total suspended solids, exceeding the 70-percent requirement of the City's SWMP. The system cartridges would be replaced as part of the maintenance routine. The system was proven effective and was an approved option under the KCWSWDM for removing suspended solids from storm water.

Mr. Wright contended that Comprehensive Plan Policy 4.6.7 was an overarching guidance for development layout but was not meant to deal with a small segment of a project, such as storm water design, other than overarching principles. He reviewed the Council-approved grading plan. The proposed development would have three detention vaults: a smaller vault at the eastern end of SW Wolverine Drive (Wolverine), a larger vault mid-way along SW Badger Place (Badger), and a smaller vault at the southern end of Wolverine. The eastern and western vaults would be below ground and would not visually impact the area.

The majority of the central vault would be below ground. The applicant proposed grading the area to cover the portion of the vault that would otherwise be exposed. The vault would be accessible from Badger for maintenance purposes and utilities.

Mr. Wright reviewed that Comprehensive Plan Policy 4.6.7 addressed preserving significant natural features, such as tree groves. The proposed storm water detention and filtering facilities would be located where shown on the original, approved diagram. The applicant attempted to minimize soil disturbances and removal of native vegetation. The layout of the proposed sub-division would preserve large areas of open space and large Oak groves. The development pattern was approved, so the applicant was dealing with final details.

Mr. Wright opined that the application met Conditions of Approval 20 and 27 and Comprehensive Plan Policy 4.11, which also addressed minimizing impacts to wetlands through mitigating impacted wetlands via dedications of open spaces and drainageways. He noted that more than 42 percent of the development site would be open space, and only 43 percent of the site would be developed with lots.

Questions of Applicant

Councilor Beilstein asked why vaults would be used, rather than surface detention ponds. He acknowledged that the Council approved the development without an approved storm water drainage system, prompting the current public hearing. During the earlier public hearings, the Council discussed surface detention ponds, rather than vaults.

Mr. Wright responded that he designed many detention facilities in Corvallis, standards for which evolved with time to be more proactive in achieving water quality and implementing the SWMP. He supported detention ponds and swales because they created wildlife habitats. Brooklane Heights would be developed on a very steep slope, so a large open pond up slope from residences would not be appropriate. He considered safety a priority in development designs. Therefore, an underground, concrete tank was deemed more appropriate. Interpretations and understandings of achieving storm water detention and quality evolved, resulting in larger detention facilities. It was more reasonable to bury a detention tank than to create a larger surface pond. The detention tanks would be approved under the KCWSWDM.

Councilor Beilstein noted that the developer would be responsible for the storm water filter system for five years after system installation completion, then the City would assume responsibility. He asked about the cost of maintenance in terms of time and labor.

Mr. Wright responded that City staff had experience with maintaining storm water detention vaults. He confirmed that the developer would be responsible for maintenance for the first two to five years. He commented that detention vaults were being installed in communities throughout the nation, and maintenance technology was readily available. He noted that detention ponds required maintenance in terms of vegetation or sediment removal. He added that it cost money and maintenance to remove suspended sediments from storm water. He opined that maintenance of detention vaults and ponds was similar in order to remove 80 percent of suspended solids, so the maintenance costs between the two types of systems should not differ significantly.

Councilor Raymond observed that some of the original application features, such as open detention ponds, would be beneficial to the proposed neighborhood in terms of wildlife habitat. She inquired whether cement storm water detention vaults were in any other Corvallis developments.

Mr. Wright said he had not installed concrete storm water detention vaults in Corvallis. However, he designed other types of vaults for Corvallis projects, including Fairway Commons, near Timberhill, and Meadowlark. He considered concrete the best material for underground water storage, as it lasted indefinitely.

Councilor Raymond asked whether leaves from the Oak trees on the property would cause problems with the filtration system.

Mr. Wright responded that organic debris could collect in the storm filter cartridges or another portion of the storm water conveyance system, similarly to any other storm water system that was intended to remove a large portion of suspended solids. Debris must somehow be removed from the storm water. He was not aware of the proposed detention vault filtration system being more problematic than other systems.

In response to Councilor Hogg's inquiries, Mr. Wright said the development site included a steep ravine near the western edge. The western north-south section of Wolverine had a 15-percent grade, the street leveled along much of the east-west section, and it sloped again at the eastern end. Portions of nearby SW Fairmont Drive (Fairmont) had 15-percent grades, and SW Agate Avenue was steeper than 15 percent. The slope between Fairmont and Wolverine would have a steepness similar to Fairmont.

Staff Report

Mr. Richardson reviewed that the Council considered the application three times and rendered decisions each time. The first two decisions were appealed to the LUBA and remanded. The third decision in 2010 was appealed to the LUBA and affirmed. Therefore, the application was approved, subject to Conditions of Approval. The Council must determine compliance with Conditions of Approval 20 and 27, which were developed to address the 2009 LUBA remand.

Mr. Richardson noted that Comprehensive Plan Policy 4.11.12 (referenced in Condition of Approval 20) and Comprehensive Plan Policy 4.6.7 (referenced in Condition of Approval 27) were used as review criteria for the Council's earlier decisions. Therefore, the Policies were referenced in the Conditions of Approval. In this case, the Policies were considered criteria in determining whether the proposal was appropriate and satisfied the Policies.

Mr. Richardson outlined five reasons staff believed the applicant's materials complied with Condition of Approval 20 regarding storm water plans and Comprehensive Plan Policy 4.11.12, which addressed minimizing impacts to water patterns from a development site and where storm water goes after leaving a site.

- The proposal provided adequate information and specific details to demonstrate compliance with the SWMP and the KCWSWDM. The proposal complied with Comprehensive Plan Policy 4.11.12, particularly because the storm water facilities

would incorporate the site's natural topography and drainage basins. Detention swales followed the natural drainage area near the center of the site. The streets would follow the natural contours of the site and would collect storm water. By placing the storm water detention vaults in the lower areas of the site, the project would respect the topography.

- The proposal would use detention vaults designed so that post-development storm water runoff rates would match pre-development rates for two- through ten-year 24-hour storm events.
- The proposal used the existing public storm system, avoiding re-location or installation of new outfall points. Storm water would enter the nearby wetland at the current, pre-development locations near the northeastern and southwestern ends of Brooklane Park Estates Subdivision.
- The proposal was consistent with Comprehensive Plan Policy 4.11.12 because 70 percent of total suspended solids would be removed from the storm water before it was released to the wetlands.
- The proposed storm water facilities and associated grading would respect the natural topography and protect significant hillsides such as tree groves and views.

Mr. Richardson emphasized that the proposed storm water detention facilities would be underground, with the finished grade at its original contour.

Mr. Richardson outlined three reasons staff believed the applicant's materials complied with Condition of Approval 27 regarding development on hillsides and Comprehensive Plan Policy 4.6.7.

- The Council previously approved a grading plan for mass-graded areas; the applicant did not propose changing that plan.
- Per Condition of Approval 27, other areas that needed grading must be approved by the Council through a public hearing process. Installation of a storm water facility required some earth disturbance in the form of cuts and fills. In the application before the Council, this would occur in areas not previously approved for mass grading.
- Staff believed Comprehensive Plan Policy 4.6.7 was met for various reasons.
 - The storm water detention vaults would be underground, and the larger vault lot in the center of the site would be filled and screened with landscaping. The impacts of view to and from the hillside should be minimal. From above, the vault might resemble a driveway.
 - Comprehensive Plan Policy 4.6.7 required preservation of views of slopes and ridge lines. Much of the development, including the storm water detention vaults, would be on the lower slopes of the hillside. The development site was below the ridge line, so there would not be impacts to the ridge line.
 - The most significant natural resources on the site were tree groves. Installation of the storm water facilities would require removal of 15 trees originally expected to be retained when detention ponds were proposed. Condition of Approval 5 of the Council's 2010 Order approving the application contemplated removal of additional trees as necessary for installation of storm water facilities. Removal of the trees would be consistent with Condition of Approval 5. The application was consistent with applicable standards for tree removal from the 1993 LDC, which stated that significant trees should be preserved to the maximum extent practicable. A development requiring storm water detention facilities may necessitate tree removal

to install the facilities. The applicant proposed protecting Oak and other tree groves in four tracts of land – approximately 42 percent of the site would be protected tree and open space areas. Almost 85 percent of significant trees on the site would be protected through the proposal, after the anticipated removal of 15 additional trees. The application would preserve significant natural features, including specimen trees, which may be significant trees, to the maximum extent practicable, consistent with Comprehensive Plan Policy 4.6.7. Soil disturbances would be minimized because anything put into the ground would be returned to a finished grade. The largest detention vault would be landscaped and screened.

Mr. Richardson concluded that staff recommended approval of the application as conditioned.

Questions of Staff – None.

Public Testimony – Support – None.

Public Testimony – Opposition

Elizabeth Waldron asked when the aerial photograph of the development site was taken, noting that the northeastern portion of the property was clear-cut many years ago. She read a prepared statement. (Attachment H).

Susan Morr  concurred with Ms. Waldron. She referenced Mr. Richardson's statements that Comprehensive Plan Policy 4.6.7 and other policies were applicable review criteria and not just advisory guidelines. She noted that the City and the LUBA previously found the Policy to be applicable. Therefore, she believed the Council must find that the application complied with the Policy.

Ms. Morr  expressed concern that the Council's first review of the application involved inaccurate and incomplete information, prompting a major design change involving storm water drainage. She noted that grading plans were not submitted. While the applicant claimed expertise with drainage design in Corvallis, City staff said the original drainage plans with detention ponds were inadequate, prompting design of a larger detention facility. She added that the original plans were also not submitted to scale; the diagrams had ten-foot contours, rather than two-foot contours. She said the ten-foot-contour diagrams made it difficult to envision the steepness of the slope. She added that most of the slopes in the area were 15 to 35 percent.

Ms. Morr  displayed photographs of some of the Oak trees on the subject site. (Attachment I) She said a road was illegally created on the site, resulting in removal of several Oak trees. The revised plan involved an 8,000-square-foot storm water detention vault in the center of the development, rather than the originally planned two small detention ponds that would be open for wildlife habitat. This plan revision would require removing the largest Oak tree on the site, which measured 48 inches in diameter. Condition of Approval 5 required that specimen trees be protected and additional trees be removed only if they were proven by the City Forester to be hazardous trees or would threaten the health and vitality of the existing Oregon Oak trees on the site. She noted that 26 acres were

available for siting a detention pond. She questioned removal of the largest tree on the site, and 14 additional trees, for placement of the detention vault. She opined that the application was insensitive toward the site, which the City deemed a significant wildlife habitat, a significant hillside, and a significant archeological site. Additionally, the site drained to a significant wetland under active restoration and had significant tree groves, upland prairie, and Oak woodland.

Ms. Morr  asked that, if the Council approved the application, it add Conditions of Approval to require the applicant to re-locate slightly the detention vault to protect the "best tree on the site," rather than removing the tree. She also urged that the applicant be required to use native vegetation in the open space area, based upon Comprehensive Plan Policy 4.6.7 provisions regarding fitting the topography, soil, geology, and hydrology; preserving significant slopes and tree groves and specimen trees; and minimizing cutting and filling. The applicant proposed cuts and fills of up to 20 feet, an additional 15 feet of filling behind the storm water detention vault, and planting with non-native vegetation. She said the proposed actions would destroy the habitat, rather than protect or enhance, as was required by Policy 4.6.7. She also asked that the Council adopt a Condition of Approval requiring the applicant to use native trees and make an effort to be more site sensitive. Overall, she urged the Council not to approve the application until the applicant submitted the lot grading plan so the Council could make an informed decision with complete information. She contended that the Council's previous decision was based upon inaccurate information about the drainage requirements because the applicant did not submit a storm water drainage plan.

Councilor Beilstein asked whether the largest tree on the site was located where the large detention vault would be sited.

Ms. Morr  responded that the diagram of trees proposed for protection and removal indicated that the Oak tree was 48 inches in diameter. To her knowledge, the Oak tree in her photograph was the largest tree on the site.

Councilor Beilstein said he presumed that, according to the Comprehensive Plan criteria, the detention facility must follow land contours and be located at the lowest elevation of the development or watershed. He could not envision locating the vault elsewhere on the site, as that could require pumping storm water to the vault.

Ms. Morr  concurred but said the detention facility was re-located to a higher elevation. The facility was originally proposed for the base of the hillside, but the City did not have access from a private driveway at the bottom of the slope to maintain the facility. She opined that the City could probably obtain access from a private alleyway off Brooklane, preserving the trees.

Public Testimony – Neutral

Laurie Childers resided adjacent to the northwest corner of the proposed development. She opined that people owned land and had the right to develop their land, according to laws and development codes. She commended efforts to protect trees, have open space, and cluster houses. She expressed frustration that the grading plan was still presented on ten-foot contours, rather than the two-foot contours required by the LDC. She questioned why the

applicant would be given permission to cut 20 feet of slope. She noted that another developer was permitted to cut ten feet on another slope of the hill, but the cuts eroded to more than 15 feet in a short time period, creating a hazard. She said defying the LDC as much as the applicant proposed did not feel safe to her. She asked that everyone follow the rules. She would be sad if the largest trees on the site were removed; she believed the LDC provisions were developed to preserve significant trees. She noted that the application was subject to the 1993 LDC, which was updated.

Marilyn Koenitzer concurred with Ms. Morr  regarding the trees and detention ponds. She said she had questions regarding statements made by Mr. Richardson and Mr. Wright. She did not understand how the storm water detention vaults worked and the source of the storm water they would drain. She said it appeared that the vaults would be at the northern and southern ends of the development. She referenced an undeveloped lot on the northwest side of Brooklane. She said storm water frequently flowed down the center of hill between the proposed center and northeastern storm water detention vaults. Residents on the southeast side of Brooklane re-routed storm water flows around their homes and under their driveways. When the existing detention ponds were created with development of Brooklane Park Estates, storm water flowed over the street, rather than into the ponds. She questioned whether storm water from the Brooklane Heights development site would flow from the right locations and whether the vaults would adequately capture the storm water, especially in the center of the development site. She further questioned whether three storm water detention vaults would be adequate.

Ms. Koenitzer said she did not agree with the application the first three times it was presented to the Council and was still unsure about the current proposal. She would like the applicant to follow the City's development rules, noting that the application was subject to the 1993 LDC, rather than the 2006 LDC, because of when the application was filed. The Council must ensure that the application complied as much as possible with the intent of the 2000 Comprehensive Plan.

Councilor Beilstein surmised from Ms. Koenitzer's testimony that storm water drainage from the undeveloped hillside flowed inappropriately through lower residential yards.

Ms. Koenitzer confirmed, noting that the hillside had ephemeral waterfalls that may not reach the storm water detention ponds.

Councilor Beilstein commented that the applicant was responsible for maintaining the existing drainage, even if it was problematic.

Ms. Koenitzer requested that the record be held open seven additional days.

Rebuttal

Mr. Wright offered rebuttal to testimony:

Elizabeth Waldron –

- Liability by the City for storm water damage.
 - As a professional engineer, he upheld a code of ethics and would be the first party liable for any storm water damage from the development.

- Lack of a full grading plan.
 - The City approved a mass grading plan.
- Aerial photograph.
 - The photograph was taken in 2009 via National Agriculture Imagery Program (NAIP).
- Redundancy of the storm water detention system for large events.
 - City staff concurred with the applicant's assertion that the storm water detention system had significant redundancy. If the orifices from the detention vaults that restricted flow for peak events were blocked, there would be adequate capacity for conveyance of storm water in, above, and around the system.
- Defer decision.
 - The applicant submitted a complete design for the storm water system, well beyond what was required for a public improvement by private contractor (PIPC) permit.

Susan Morré –

- Inadequacy of application.
 - People may not be able to read the storm water plans or design diagrams. A voluminous document outlined all calculations for the pipes in the storm water system. Storm water detention and water quality requirements evolved over the past 18 years, leading to improved designs. The improvements involved better understandings of storm water and water quality for detention. The application met current storm water system requirements, with many supporting calculations.
- Contours and grading.
 - Staff report Exhibit II-15 was a detailed grading plan with one-foot contours. Staff report Exhibit II-17 depicted detailed cross-sections every 20 feet across the large center storm water detention vault. The diagrams were very detailed. The Council had not needed to deal with a PIPC-level diagram. He cited his 18-year record of designing functional detention systems in Corvallis.

Marilyn Koenitzer –

- Storm water detention vault function.
 - The application explained the operation of the vault.
- Storm water in center of the development site.
 - Storm water would flow from the top of the hill downward. The upper portion of Wolverine would intercept storm water flow that would typically continue to the lower portion of the development. The applicant proposed capturing the storm water and processing it through a detention vault and to the approved City storm drain system. This would significantly reduce the overall storm water flow on the hillside. He anticipated a net reduction in storm water flow because of the development. The applicant would make any improvements the City allowed for the access road to the detention vault. As a resident of the area, he considered himself familiar with the storm water flows of the hillside and qualified to make his assertions.

Mayor Manning recessed the meeting from 8:55 pm until 9:00 pm.

Sur-Rebuttal

Ms. Morré said people requested that all information be presented before the Council rendered another decision. She clarified that the Council approved the grading plan for the

areas to be mass graded; the applicant did not provide plans for grading individual lots. Without that information, it was difficult to know if the lots would be developable, based upon the review criteria. Community Development Director Gibb originally recommended that the Council deny the application, based upon the lack of lot grading plans and the inability to know whether the lots would be developable.

Ms. Morr  said the applicant indicated that the lots would have 12-inch pipes along the back edges to collect and divert storm water. She added that the applicant's plans did not address drainage of the central portion of the site to the detention vaults, unless the natural drainage on the site would be altered. She noted that storm water would be removed from the hillside via pipes, rather than swales that allowed infiltration. The drainage ditch at the bottom of the slope that would collect the storm water from the detention vaults emptied into the Marys River Natural Area, which was deemed a significant wetland. She asserted that the applicant's storm water plan would interfere with the natural hydrology and drainage patterns of the hillside. Not allowing the storm water to infiltrate into the slopes could be detrimental to the Oak trees and other landscape vegetation. She opined that, before the Council made a decision that would obligate City funds to maintain the drainage facilities, it should have all detailed information.

Regarding Mr. Wright's assertion that Ms. Morr  was unable to comprehend the application, Ms. Morr  said she owned a design-and-construction firm for 25 years; drew all of the firm's plans; met all of Austin, Texas' codes; and supervised construction crews. She said she was familiar with drawing and reading plans. She cited a degree in botany and a master's degree in environmental sciences; she was completing a PhD degree in sustainable land use planning.

Ms. Morr  said she wanted the application to be pursued correctly and the Council to have complete information. She would like the issues regarding the trees, siting of the detention facilities, the storm water system maintenance costs, and the volume of discharge to the lower wetlands to be resolved. She would also like the applicant to submit a lot grading plan.

Questions of Applicant and Sur-Sur Rebuttal

In response to Councilor Beilstein's inquiry, Mr. Wright said the most-significant Oak tree must be removed to accommodate the central storm water detention vault.

Councilor Beilstein inquired whether the applicant did everything possible to optimize the location of the central storm water detention vault, including considering the locations of trees.

Mr. Wright confirmed that the storm water detention vaults must be sited low on the hillside in order to be most effective. He acknowledged that engineering was not an exact science. The design must consider grading of existing lots on both sides of the detention area; therefore, it was more appropriate to locate the vault near the road. Other concerns included safety and City access. Moving the detention vault closer to Brooklane Park Estates would not necessarily save the large Oak tree. He said little could be done to save the tree if a detention facility was to be located in the immediate area.

Referencing the significant trees, Councilor Raymond inquired why there was no other possible site for the storm water detention vault. She noted that the Comprehensive Plan Policy directed "Preserve significant natural features, such as tree groves, woodlands, the tree-meadow interface, and specimen trees."

Mr. Wright responded that the large Oak tree was a significant tree but might not be the most significant tree on the site. Any tree larger than eight inches in diameter at breast height was considered significant. He acknowledged that the tree had a 48-inch diameter. He said he was not qualified to determine whether the tree would be considered the most significant on the site.

Councilor Raymond asked whether the central storm water detention vault could be located elsewhere on the site.

Mr. Wright acknowledged that the vault could be located elsewhere; however, the applicant considered more factors than some trees. The large Oak tree was one of approximately 30 significant issues that must be considered in siting the storm water detention facility.

Final Rebuttal

Ms. Morr  said she was qualified to determine whether a 48-inch-diameter Oak tree was more significant than a tree of eight to 36 inches in diameter, based upon the size, health, beauty, and view of the Oak tree from above and below the site. She contended that the tree in question was the most significant tree on the site and was in extremely healthy condition.

Ms. Morr  said the applicant had 26 acres of land available on the hillside. The applicant addressed three of four drainages on the hillside but did not address the central drainage where a detention facility was proposed. The proposed central detention vault was re-located higher on the slope, but she believed the applicant could, if required to do so, re-locate the vault lower on the slope, thereby protecting the Oak tree.

Questions of Staff

Mr. Gibb said staff would like to receive all questions from the Council soon and would prepare responses for distribution prior to the Council's April 4 deliberations.

Request for Continuance – None.

Request to Hold Record Open

Mayor Manning reviewed that Ms. Koenitzer requested that the record be held open seven additional days. She said additional written comments were due to staff by 5:00 pm, March 28.

Questions of Staff

Councilor Beilstein noted that grading on the site would be phased, with mass grading prior to grading of individual lots or even prior to approval of grading for individual lots. He

expressed concern regarding erosion control over a possibly long time period, should development following grading be delayed. He inquired about protecting the hillside from soil erosion before the site was fully developed.

Councilor O'Brien referenced concerns regarding lack of information about individual lot grading. Condition of Approval 27 stated, "Prior to grading and excavation activities in areas not approved for mass grading, the applicant shall obtain approval by the City Council through a public hearing review process, detailing how the grading plan(s) for development on individual lots are consistent with Comprehensive Plan Policy 4.6.7." He asked staff to address the quoted portion of the Condition of Approval in relation to the effect on the storm water maintenance plan.

Councilor O'Brien expressed concern regarding making a decision based upon degree of significance of a particular vegetation. He asked staff to explain whether it was appropriate for decision makers to use the degree of significance of a particular vegetation in their decision.

Councilor Raymond asked whether pipes would extend from the storm water detention vaults, under streets, to the lower wetland. She also asked whether the Parks and Recreation Department had any insight regarding how the anticipated amount of discharged storm water would affect the wetland. She asked what might happen during a major rain event when all the storm water drainage pipes discharged to the wetland.

Mr. Gibb said staff would present a full response to the Council's questions during the Council's April 4 meeting. He assured the Council that staff carefully reviewed various iterations of the application.

Councilor Hervey inquired whether the long-term cost to the City for maintaining the proposed storm water detention vault would differ from that of a system for a similarly sized development on a more level site. He inquired whether, under Condition of Approval 20, a maintenance bond would be required in the future for failure of the system or whether the bond would be returned to the applicant after the City accepted the system. He also requested information regarding the life expectancy of the storm water detention vault.

Councilor Hervey noted that the Council was to review the application in terms of the storm water plan. The staff report focused on the storm water plan, grading, and other issues associated with the storm water system. LDC Chapter 4.2 regarding landscaping, buffering, and screening was cited in relation to the 15 trees slated for removal. He added that the number of trees slated for removal was small in relation to the trees on the project site. He inquired whether this analysis was appropriate.

Councilor Beilstein referenced Ms. Koenitzer's testimony regarding a perceived failure of the storm water plan for the neighborhood in that storm water flowed across residential yards and that diversions were necessary to protect homes from erosion. He questioned whether the proposed development would eliminate some of that situation, but the storm water detention system might reduce the amount of water available to vegetation downhill from the central portion of the development. He noted problems in other developments where residential water usage caused problems of water drainage to Oak trees that were

unaccustomed to summer water and subsequently died. He surmised that the proposed storm water detention system would reduce the amount of surface water to the Oak trees during the rainy months and asked whether this should have been considered in the application or was beyond the scope of the application. He further asked whether the Oak trees might be endangered if the problem of downhill residential yard flooding was resolved.

Councilor Beilstein inquired whether staff considered whether the proposed location of the central storm water detention vault was optimal or whether there might be a better location that would save the large Oak tree.

Mr. Gibb responded that staff reviewed several iterations of the storm water detention plan and concurred with the applicant's proposed location for the vault.

Councilor Hogg quoted from Condition of Approval 20, "Infiltration facilities are a recommended means of meeting water quality requirements where soil and slope conditions (not more than ten percent) permit the use of infiltration facilities and where the facilities will not have an adverse impact on the subject site or adjacent or downhill properties." He requested clarification of the provision, based upon testimony that the hillside slope was 15 to 30 percent.

Right to Submit Additional Written Argument

The applicant waived the right to submit additional written arguments.

Councilor Raymond asked Mr. Brewer to address testimony that the City would be liable for any consequences of the proposed storm water drainage system.

Mr. Brewer responded that anyone could sue anyone for any reason. He explained that the legal system provided for comparative and contributory negligence. If the City was negligent in allowing something, it might have some liability; that liability would be compared to and in contribution with other parties that would be negligent (e.g., design professionals, contractors, etc.). As a governmental body, the Council had discretionary immunity. The LUBA remanded the issue to the Council as a discretionary decision. The Council would weigh risks and how to address the risks before making a decision. The evaluation would render the City immune from liability.

Mr. Gibb said staff would respond to some questions in writing and elaborate on others during the Council's meeting.

XI. ADJOURNMENT

The meeting was adjourned at 9:27 pm.

APPROVED:

MAYOR

ATTEST:

CITY RECORDER

Louie, Kathy

From: Rep Gelser [gelser.rep@state.or.us]
Sent: Sunday, March 20, 2011 8:37 PM
To: Nelson, Jon; Sen Morse
Cc: Manning, Julie; Louie, Kathy; Boldizar, Gary
Subject: RE: HB 2075

Dear Jon, Julie and all,

I share your strong support of HB 2075. I believe we've discussed this issue every session I've served. The unwillingness of the cellular providers to come to the table to work constructively on a solution has been most frustrating. Just last week, they sat before the House Revenue Committee and told us there were no potential solutions they were ready to discuss.

The need for reverse 911 calls in the wake of the tsunami two weeks ago was the clearest argument yet about the importance of adequately funding our call centers. Including prepaid cellular in the 911 assessment is a matter of simple equity. I will continue working with my colleagues to make progress on this issue, and hope that if given the opportunity the City of Corvallis can express their concerns to the providers who are making progress difficult.

Thanks again for writing on this very important issue!

Sara

Representative Sara Gelser
 Deputy Democratic Whip
 Co-Chair, House Education Committee
 House District 16 (Corvallis/Philomath)
 (503) 986-1416
rep.saragelser@state.or.us

From: Nelson, Jon [Jon.Nelson@state.or.us]
Sent: Monday, March 14, 2011 11:15 AM
To: Rep Gelser; Sen Morse
Cc: Manning, Julie; Louie, Kathy; Boldizar, Gary
Subject: HB 2075

Hi Representative Gelser and Senator Morse,
 Chief Boldizar's e-mail (content below) does a good job of capturing the equity and subsidy issues currently in play in 9-1-1 Centers that have evolved with the growth of cell phones. To put this in a money context, the Corvallis regional 9-1-1 Center, which serves 10 emergency service agencies in Benton County, must rely on \$936,420 in general fund payments (property taxes) in addition to the 9-1-1 tax, to maintain operations. This is becoming increasingly difficult to maintain as budget reductions occur across the board for all services and agencies.

Thanks for understanding the importance of this issue to emergency service providers and other local government service providers.

In a brief discussion with Mayor Manning, she endorsed support for HB 2075, and we will be sharing this e-mail with the City Council for their formal consideration of HB 2075 on March 21, 2011. Fyi, the Corvallis City Council is already on record in support of maintaining state shared revenues and addressing inequity issues of which this is one.

Thanks for your service.

Jon Nelson

Representative Gelser... I am making this contact to urge you to support House Bill 2075, the bill to require the collection of 9-1-1 user fees (75 cents per month per line) from non-contract cell phone providers. The Corvallis Regional 9-1-1 Center, one of 49 such centers in Oregon, is operated by the Corvallis Police Department. We provide police and fire emergency dispatch services for every police and fire agency in Benton County. Last year 62% of our calls for service originated from a cellular

3/21/2011

telephone. Calls to the 9-1-1 centers are significantly increasing each year driving demand for services, staffing, related equipment and ultimately costs to run the center. The Corvallis Regional 9-1-1 Center receives about 25% of its funding from the 9-1-1 user fees. The telephone communication system has been experiencing a significant reduction in the percentage of wired phones, which historically all pay the 75 cents per month fee, and are being replaced by cellular and internet phones. The latest trend is the movement to non-contract cellular telephones which will result in further reductions in 9-1-1 tax revenues for the 9-1-1 Centers in Oregon. I urge you to support HB 2075 so that there will be equity in the 9-1-1 telephone tax system. Thank you.

Gary D. Boldizar, Chief
Corvallis Police Department
(541) 766-6925

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BOARD OF COMMISSIONERS
408 SW Monroe Ave., Suite 111
P.O. Box 3020
Corvallis, OR 97339-3020
(541) 766-6800
FAX (541) 766-6893

March 8, 2011

Senator Jackie Dingfelder
900 Court St., NE S-407
Salem, OR 97301

SUBJECT: SENATE BILL 536 ENDORSMENT

Dear Senator Dingfelder:

The Benton County Board of Commissioners endorses Senate Bill 536 which bans single-use plastic checkout bags. We recognize that the production of paper bags does not solve the single-use dilemma either. We see passage of this bill as a step toward increasing the adoption of re-usable containers.

As concerned citizens, we cannot ignore that the world's oceans are increasingly polluted with plastics, which in any form, are a hazard to aquatic life. When consumed by marine life and terrestrial life, plastics can cause malnutrition, starvation, and ultimately death. It is critical that Oregon – a Pacific Northwest state – show leadership in protecting our oceanic ecosystems and as well as those on land.

Locally, plastic bags continue to clog the waste stream at the regional Coffin Butte Landfill located in Benton County and contaminate the recycling stream at the adjacent Process Recovery Center. All of this, while acknowledging the fact the scarce fossil fuels are a significant component of plastics.

We, in conjunction, with the County's Environmental Issues Advisory Committee, request you as Chair of the Senate Environment and Natural Resources Committee and our state legislators to support this bill to promote sustainability in Oregon.

Sincerely,

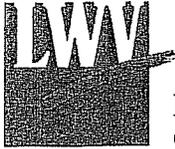
Linda Modrell,
Chair

Jay Dixon,
Commissioner

Annabelle Jaramillo,
Commissioner

Cc: Representative Sara Gelser
Representative Andy Olson
Representative Jim Thompson
Senator Frank Morse

ATTACHMENT B
Page 137-c



LEAGUE OF WOMEN VOTERS®
OF OREGON

February 8, 2011

To: Senate Committee on Environment and Natural Resources
Senator Jackie Dingfelder, Chair

Re: SB 536, Prohibits plastic single-use checkout bags: Support

The League of Women Voters of Oregon is a non-partisan, grassroots, political organization that encourages and enables informed participation in government. The League has positions on solid waste that support reduction in use of materials that end up in our landfills, especially materials that do not degrade. Our members believe that government policies must promote stewardship and consumption of nonrenewable resources should be minimized.

We support SB 536, which will reduce plastic bags in our waste stream. The bags clog our recycling machines and show up on our beaches, along roadways and in local streams. Damage to wildlife is well documented. To provide fairness and consistency, a statewide ban is a reasonable solution to this serious environmental concern.

We urge your support of SB 536 and ask that you send it to the floor with a "do pass" recommendation.

Thank you.

Sincerely,

Marge Easley
President
Coordinator

Peggy Lynch
Natural Resources



ATTACHMENT
Page 137-e

FOR MORE INFO . . .

. . . be sure to explore the

resources on the City's intranet:

<http://cityshare/TeamsAndGroups/sustainability/>

IT'S UP TO YOU!

All City employees are expected to be familiar with the Organizational Sustainability Policy and to understand the sustainability procedures and issues related to their jobs.

You also have the right and responsibility to:

- Propose improvement projects.
- Suggest or change documentation.
- Initiate corrective and preventive actions.

You should feel free to take questions, problems, or suggestions to your supervisor, Citywide or departmental core team members, or the Sustainability Supervisor.



City of Corvallis



ASK AN EXPERT!

Staff from all departments make up the Citywide and departmental core teams, which are helping to institutionalize sustainability in the organization. The teams help set organizational goals, develop metrics, implement projects, report on progress, and publicize City efforts internally and externally.

Citywide Core Team Members

- Brett Armfield, Finance
- Douglas Baily, Fire
- Janet Chenard, Finance
- Deb Dwyer, Police
- Carol Klamkin, Library
- Tony Krieg, Finance
- Jackie Rochefort, Parks and Recreation
- Adam Steele, Public Works
- Josh Tacchini, Public Works
- Mark Taratoot, Public Works
- Jay Yaich, Community Development
- TBD, City Manager's Office

Five City departments have their own Core Teams:

- **Community Development:** Bill Clemens, Marci Laurent, Jay Yaich
- **Fire:** Douglas Baily, Josh Crawford, Ray Farm, Leo Onderko, Jim Patton
- **Parks and Recreation:** Chrissy Bevans, Sharon Bogdanovic, Deb Curtis, Steve Deghetto, Mike Fischer, Jackie Rochefort, Ed Olson
- **Police:** Gary Boldizsar, Alice Derrickson, Pete Dunn, Deb Dwyer, Jennifer Hendricks, Dan Hendrickson
- **Public Works:** Denise Eason, Greg Gescher, Rob Heiken, Jim Mitchell, Jeremy Rhoades, Bill Ritchey, Brian Schachtsick, Mary Steckel, Tim Wear

Sustainability at Work

March 2011

the power to act
SUSTAINABILITY
 to keep going

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.

— City Council Policy on Organizational Sustainability

CITY OF CORVALLIS
 ORGANIZATIONAL
 SUSTAINABILITY GOALS

- EMPLOYER OF CHOICE
- SUSTAINABLE FACILITIES
- SUSTAINABLE PURCHASING
- VEHICLE CARBON FOOTPRINT
- ZERO SOLID WASTE

The City recognizes its responsibility to:

- Protect the quality of the air, water, land and other natural resources, and to conserve these resources in its daily operations.
- Minimize organizational impacts on local and worldwide ecosystems.
- Use financial resources efficiently and purchase products that are durable, reusable, non-toxic and/or made of recycled materials.
- Treat employees in a fair and respectful manner, providing an inclusive work environment and helping staff develop their full potential.

SUSTAINABILITY AT WORK



1. Maintain a healthy work environment. Ask Risk Management for an ergonomic assessment of your workspace.
2. Drive smart. Avoid idling to reduce fuel use, pollution, and engine wear.
3. Turn off computers, lights, phone chargers, monitors, and other office equipment when not in use.
4. Go paperless when possible. Read or store documents online.
5. Print smart. Set your default to duplex printing. Use the back of old documents for notepads or drafts.
6. To reduce waste, use your own water bottle, mug, and dishware for meals you eat at the office.
7. Learn where the recycling and composting containers are in your building—and use them!
8. Get rid of your garbage can. See if you can get to zero waste in your personal workspace.
9. Sustain yourself. Attend a Wellness Brown Bag.
10. Reconsider your commute. City employees ride transit for free and have access to showers and secure parking for bike commuting.



MORE QUESTIONS ABOUT SUSTAINABILITY?



- Sustainability Supervisor Linda Lovett at 541-754-1736 or linda.lovett@ci.corvallis.or.us
- Sustainability Program Specialist Scott Dybvad at 541-766-6331 or scott.dybvad@ci.corvallis.or.us



City employees have the responsibility to:

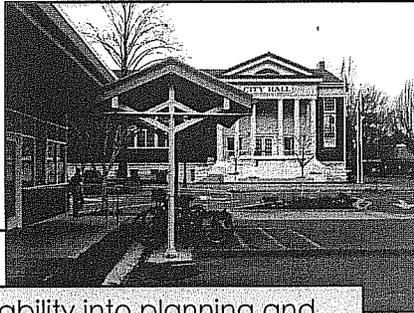
- ◆ Protect the air, water, land and other natural resources and to conserve these resources in daily operations.
- ◆ Spend money wisely and purchase durable, reusable, non-toxic and recycled-material products.
- ◆ Treat others fairly and respectfully, provide an accepting work environment, and seek to develop to their full potential.

— City Council Policy on Organizational Sustainability (CP 04-1.08)

What is Sustainability?

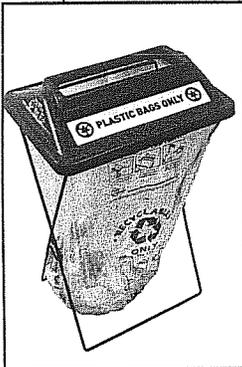
"Sustainability means using natural, financial and human resources in a responsible manner that meets existing needs without compromising the ability of future generations to meet their needs."

— CP 04-1.08



To integrate sustainability into planning and operational processes, the City of Corvallis developed a **Sustainability Management System**. The SMS is built on the ISO 14001 International Standard, which follows the "Plan, Do, Check, Act" model:

- **Plan:** identify activities and their impacts, establish goals;
- **Do:** train, communicate, document;
- **Check:** monitor and measure, audit, take corrective/preventive action;
- **Act:** review progress.



Organizational Goals

Employer of Choice

- A workplace where practices, policies, benefits and overall work conditions attract and retain exceptional employees.

Sustainable Facilities

- Create and operate facilities that reduce energy, water, and materials use and are healthy and safe.

Sustainable Purchasing

- Consider the costs to operate, maintain, and dispose of a product when making purchasing decisions.

Vehicle Carbon Footprint

- Reduce fossil fuel use by changing driving behavior and using alternative fuels.

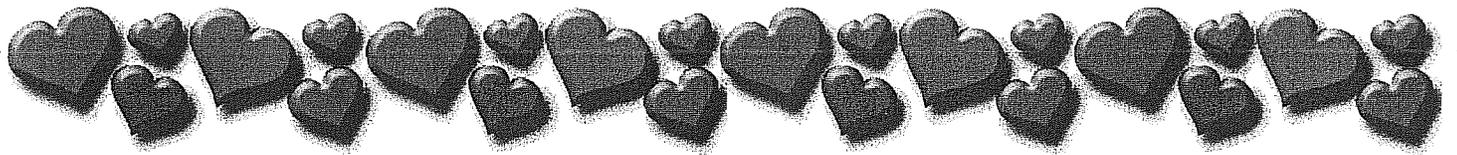
Zero Solid Waste

- Eliminate waste to the landfill by reducing what and how much is purchased and by recycling everything possible.

IT'S UP TO YOU!

City employees:

- Be familiar with the Sustainability Policy.
- Understand how your job contributes to sustainability goals.
- Propose projects to make the organization more sustainable.
- Take action to correct problems.
- Share your questions, ideas, and suggestions with your supervisor or a Sustainability Team member.



Do you really LOVE me?



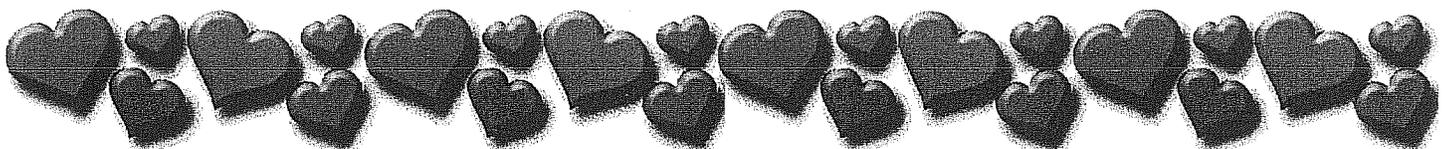
Or are you just USING me?

Make the Earth your *Valentine* by using its resources wisely.
At work or home, you can ask of each purchase you make:

- | | |
|---|--|
| 1. Is it made of recycled or renewable materials? | 6. If it breaks, can it be fixed? |
| 2. Is it a fair trade product? | 7. How will I dispose of it? |
| 3. Could I borrow, rent or buy it used? | 8. Is it recyclable or biodegradable? |
| 4. Is it overpackaged? | 9. What is its environmental cost? |
| 5. How long will it last? | 10. Is it worth the time I worked to pay for it? |

Sustainable purchasing:

*When you care enough
to buy the very least.*



Memorandum

To: Mayor and City Council
From: Bob Richardson, Associate Planner *BR*
Date: March 21, 2011
Subject: Written testimony regarding Brookline Heights Conceptual and Detailed Development Plan, and Tentative Subdivision Plat (PLD06-00018, SUB06-00006)

Enclosed is testimony received after release of the March 11, 2011, Staff Memorandum regarding the above land use case, and before 5:00 PM on March 21, 2011.

Day, Emely

From:

Sent: Monday, March 21, 2011 3:23 PM

To: Day, Emely

Subject: Comment: City Council March 21, 7:30 hearing.

Dear Emely, I will send this to Planning email and to Mr. Richardson. Thank you.

Mayor and City Council
March 21, 2011
Brooklane Heights (PLD06-00018, SUB06-00006)
Storm Water Design

March 21, 2011

Dear Mayor and City Council,

Condition of approval 20 storm water:

I do not find Staff's discussion referencing that the noted undisclosed bond for maintenance of storm water facilities discussed in detail what the cost's will be over the long term to maintain Tract B engineered filter cartridges and containment vault after the allotted time requirement by the developer to maintain their systems. From what information I could understand, this system appears to be sensitive to poor maintenance and be subject to increased impacts from area sediment erosion from cut and fill for site and each lot, and vault filters could be expensive to maintain and replace each of the (#?) filter cartages. If suspended sediement erodes from cut and fill areas and moves downslope into this filter vault will the vault basin need to be cleaned more often, or will the filters need to be replaced more often if they are subject to more impact by suspended sediement (clay, sand) from cut and fill areas upslope of this easement?

Will the City Public Works Dept. have to purchase a lift truck and hire a support person to work with this system in maintaining it?

Additionally, will the City pay for long term maintenance of three vaults and engineered drainage easements with Gabon engineering(steam stabilization system) (CC Exhibit II-12 Eng. Drawing 1.8 and CC Exhibit II-288 March 11, 2011 staff report, using the designated bond for maintenance funding after the City takes over maintaining these drainage facility?

For tree planting in Tract B near the buried vault, how will these trees interfere with the function of the drainage facility with leaf fall, roots growing into the vault system, acidification of area soil by tree leaves which may create problems with how the vault functions? Could plantings create problems for maintenance vehicles that will have to work in this area to extract filters after five years or more as per the warranty on the filters.

Will the three drainage water storage/release vault systems be insect free? Standing water and access to this water could provide habitat for native frog spp- red tree frog and assorted aquatic insects such as native and nonnative mosquito spp.

Will the vault in Tract B require power to operate or power source to clean out?

The grading plan Graphic Y CC Exhibit VI-4 in the LUBA remand is not the same/is different then Graphic Y CC Exhibit IV-15 grading plan shown in the staff report.

So, I assume the public never saw the newer grading plan Exhibit IV-15 during the hearing prior to appeal to LUBA. And hopefully the public say this new grading plan at the hearing where this site grading was approved.

Can the new grading plan be overlain with the drainage grading plan to show where drainage grading and additional grading will need to take place in order to better try to figure out how drainage grading will work with new site grading plan added onto this evaluation?

I found trying to look at drainage grading information lacking detail in this staff report.

“Other Storm Lines

In addition to the above work, storm lines are proposed along the bottom of the lots on the south side of Bager Place. Installation of these lines requires some digging, but the finished grade will not change, and the applicant’s drawings indicate that significant trees would not be impacted.” Page 22 analysis of condition 27, in free handout to the public.

In Conditions of Approval discussion, Staff refer’s to Exhibit D-2 Drawing Y in the March, 11 Staff Report. Does the Staff report contain Exhibit D-2? and it is marked in another way? I am finding errors in some of the graphics so this Exhibit D-2 could be labeled and I am not seeing this text.

How is the pond/catchment basin above Bager Place in the East Drainage going to be engineered to catch filter and store sediment before outfalling I assume to move downhill to the buried drainage Vault in the East Drainage area below Bager and above Brooklane Estates?

The engineering design and analysis of drainage is complex and difficult to evaluate, so hopefully Staff engineering has done an excellent review of these engineering estimates and are ok with grading on 26 acres or 35% of the site is over 10% slope and after this looking at how the graded site functions with newly exposed unvegetated/tipping(uptifted on fault line) layers of sandstone and clay eroding and pooling in these grades areas.

Will any drainage excavation take place in Lot 28? Archeological Site 35-BE-67 if this index/State of Oregon Historic Preservation Documentation of known cultural site is correct.

Drainage way to the west in the LUBA Remand hearing discussion: page 28 footnote #19, was not considered a drainage way because water was not seen to move across it. So, hopefully since a buried pipe will take water downhill in Tract C that this easement complies with LDC 4.5 regulation?

I note that the Tract C drain pipe appears to drain to the existing storm water system and appears to be unfiltered before it reached the containment pond located on Dilson Property on Marys River side of Brooklane Drive.

Run off from lots along Wolverine Drive in Tract C will drain to this pond and I assume will be unfiltered. Drainage from Wolverine Drive may contain petroleum products and these will be deposited directing into the pond and drainage ditch to Marys River. This additional water from Brooklane Heights and Oakmont and the additional subdivision on Chintimini Drive will impact water quality for this pond. Beaver, western pond turtle as species of concern for the State of Oregon, wood duck and other ducks use this pond system regularly.

For the Gabon drainage easement “swale”
(CC Exhibit II 288)

(CC Exhibit II-12 Eng. Drawing 1.8) cut to 3:1 slope with twenty four foot wide "swale", how will the sides of this cut be kept from eroding? Will these slopes be dangerous to trap/create hazardous conditions for: animals, people, children, dogs and wildlife? Should this area have a fence around it since it is not native grade and may erode further on the slopes left and right of the active wetted channel where the metal and rock gabon are installed.

At what slope angle does this particular gabon engineering system fail? I did see mention of limit of ten percent slope for all water treatment facility as per I assume CP 4.11.12 and these gabonned slopes as easements may be greater then ten percent slope native slope over ten percent is 75% of the site.

How will the drainage easement engineered gaboned/24ft wide 3:1 slope "swale" system function when they all rust away at the same time and who will pay for replacement of this system in x years? I did not find discussion in the Applicants Maintenance chart for the Gabon engineered easement.

When these Gabon engineering stream structure disintegrates/destabilized, catastrophically fails, rusts away and erodes out, who is responsible to repair the damage caused by possible erosion damage in the engineered channel?

The historic grade has been altered to possibly expose softer sediments in the active wetted channel. Erosion after the failure of the Gabon engineering could be extensive and access to this easement to repair and reengineer this drainage corridor may be nonexistent.

Thanks for your kind consideration,
Regards,

Rana Foster : _____, Corvallis Oregon.

[Get Free Email with Video Mail & Video Chat!](#)

SUBJECT: Brooklane Heights Subdivision (PLD06-00018, SUB06-00006, LUBA 2009-042)
Corvallis City Council March 21, 2011 Hearing
Written testimony of Susan and Jeff Morré

Context: This 26-acre proposed development is on a hillside that the City has designated as a significant hillside, significant wildlife habitat, significant tree groves, and drains to a significant wetland area that is undergoing active restoration right now - the 74-acre Marys River Natural Area. It is comprised of upland prairie and Oregon white oak woodland, with seeps and springs in two City-recognized drainageways which the State has determined to include wetland areas that require mitigation. It has documented archaeologically significant sites that are located in the upland portion of a historic Kalapuya settlement that includes the natural area below.

We have the following major concerns about the proposed stormwater design and changes from previously approved grading and tree preservation conditions of approval:

1 – Once again the applicant is asking you to approve a portion of this proposed development in piecemeal fashion, with incomplete information. We respectfully urge you to postpone any decision on this stormwater design until the applicant provides a detailed grading plan for the entire development, to allow you to make a more informed decision.

It is not prudent or wise to approve a grading plan to install stormwater facilities without requiring that the overall development grading plan be submitted at the same time. This is the same basic reason that Corvallis Community Development Director Ken Gibb recommended denial of the initial 2007 application in the original staff report to Council – approving the development without the detailed stormwater and lot grading plan could result in unbuildable lots. This is one of the numerous reasons that the Corvallis Planning Commission voted on June 20, 2007 to deny the initial application. If you vote to allow the stormwater facilities, streets and utilities to be constructed, is there any possibility that you would not approve a future lot grading plan, regardless of whether it complies with existing regulations? Highly unlikely. Let's make a decision with all the information on the table at once, like we have requested all along, and which should have been done at the first hearing on this proposed development.

2 – Because no stormwater plan was submitted with the original application, the applicant woefully undersized the original detention pond on the site, didn't draw the detention facility to scale on the revised plan, and has now proposed building a large detention vault instead of two much smaller detention ponds. This represents a major change in the site plan and warrants full disclosure of additional grading plans, not a deferment to a future hearing. According to Exhibit II – 15 (page 49), the newly-proposed concrete detention vault, which is located in the central drainageway, has a 96,000 cu.ft. storage capacity, an 8000 sq.ft. footprint, with a six-foot black chain link fence, 15 feet of fill on the low end, extending 40 feet out, with 100 *Viburnum davidii* and 50 red-tip photinia planted below it and 10 nonnative red maples flanking it. It is 15 to 20 feet tall, as shown on page 51 cross-section D. They contend that locating the tank here, adding 15 feet of fill and installing inappropriate nonnative plant choices to hide it will somehow preserve the view of this visually significant slope, as required by CCP 4.6.7.G (“Demonstrate a concern for the view of the hills as well as the view from the hills.”). This new change is not consistent with this required provision. The massing of nonnative plants does not assure consistency with CCP 4.6.7.H (“Provide landscaping that enhances the identified open space resources.”). *If you vote to approve it, we request you add a condition of approval requiring site-appropriate native plants to be used in this significant wildlife habitat area.*

3 – Because there is currently no City access to maintain the facility from the private alley, they propose to move the tank upslope to be accessed from Badger Place, where the largest Oregon white oak tree on the site is located. This change in plan does not comply with staff-identified review criterion LDC 4.2.20.c: “Significant plant and tree specimens should be preserved to the greatest extent practicable and integrated into the design of a development.” It also does not comply with the February 1, 2011 Condition of Approval 5 (tree preservation) on pages 56 and 57 of the document packet, and fails to comply with CCP 4.6.7.C as required by LUBA: “Preserve significant natural features such as tree groves, woodlands, the tree-meadow interface, and specimen trees.” As part of the relocation, they now propose to remove 14 additional trees, including a 48-inch Oregon white oak tree, a 28-inch maple, and another 12 trees beyond the 50 trees they had originally proposed to remove. COA 5 states “Unless approved for removal through this application, trees in tracts A, B, C, and D, as identified in the approved Revised Tentative Subdivision Plat SHALL BE PRESERVED UNLESS A TREE IS DETERMINED TO BE A HAZARD TREE, OR ITS REMOVAL IS NECESSARY TO PROTECT THE HEALTH AND LONGEVITY OF AN OREGON WHITE OAK.” I believe this is the largest oak on the site, and is a healthy, magnificent tree. The Staff Report proposes a new Condition 7 “Tree Mitigation” to take the place of protecting the most significant tree on the entire site. They propose mitigating the loss of these significant native trees by planting 10 nonnative red maples, and two ponderosa pines in another drainage to replace another significant oak they are now asking to remove. *If you approve this stormwater design, we strongly urge you to change the new condition of approval to require relocation of the facility enough to preserve this specimen oak tree in tract B and the other large oak in tract C.*

4 – The stormwater runoff information provided by the applicant’s project manager in these documents directly conflicts with his statement at the previous City Council hearing about the impact of this development on runoff. We have no confidence in the accuracy of any of the information submitted by the applicant because the developer’s engineer Scott Wright testified at the last hearing that there would be no real difference in the pre- and post-development runoff (which is counter to known facts); now on pages 195, 196 and 197 of the documents (see link below) he includes a graph of pre- and post-development runoff that shows a 400% to nearly 500% increase. This miscalculation has resulted in a major redesign of the stormwater facility, going from two small detention ponds to a huge 96,000 cubic foot detention vault with much higher impacts on the site. Based on this major discrepancy, the City Council would be acting prudently and in the community’s best interest by postponing any decision here until they have the full grading plan and staff can analyze whether or not it is acceptable and complies with applicable regulations.

5 –LUBA required that consistency with CCP 4.6.7 Hillside Development Standards be assured. The information provided does not assure consistency with CCP 4.6.7. In addition to the already mentioned CCP 4.6.7.C, it also is not consistent with 4.6.7.A (“Plan development to fit the topography, soil, geology, and hydrology of hillsides....”) or 4.6.7.D (“Align the built surface infrastructure, such as roads and waterways, with the natural contours of terrain and minimize cutting and filling in developments”). The proposed development already has 28 Conditions of Approval placed on it, because of numerous noncompliance issues, many of which are due to the fact that this proposed development makes little effort to fit the topography of the hillside or to minimize grading or cuts and fills. This latest application now has additional areas of grading and additional cuts and fills that go beyond the outrageous amounts previously proposed (up to 20 ft. cuts and fills).

Now an additional seven conditions are added, and additional grading is being proposed well beyond what was originally approved for the stormwater facilities. New 24-foot wide grading is proposed in the drainage swales. (See page 20 of the staff report for analysis of Condition of Approval 27.) Because the

applicant's project manager Mr. Wright did not conduct the required stormwater analysis up front before the City Council voted to approve this project, you are being asked to approve additional grading to accommodate larger drainage swales and detention facilities. You were misled by missing and inaccurate information in the first place. You are now being asked to make another decision to approve part of this project with actual lot grading information still missing. Why won't the applicant provide all the information at once? Are they afraid you won't approve it if you actually know all that they propose to do that doesn't meet the spirit of the Corvallis 2020 Vision Statement or the specifics of the Comp Plan and Land Development Code?

6 – Condition of Approval 20 requires demonstration of consistency with CCP 4.11.12: “Development upslope of wetlands shall minimize interference with water patterns discharging to wetlands, and shall minimize detrimental changes in water quality for waters discharging to wetlands.” Consistency with CCP 4.11.12 is not demonstrated by these statements: Page 18 of the Staff Report states: “Placing streets, constructed swales, and pipes within areas that naturally collect runoff helps to maintain natural drainage patterns of the development site, thereby minimizing interference with water patterns discharging to wetlands. This is consistent with CCP 4.11.12.” If this were true, why would city regulations not allow streets, pipes, and other construction in designated drainageways? Because streets in drainage ways DO interfere with the natural drainage patterns. Also, page 18 states: “By using existing pipes, rather than installing new pipes in new locations, the locations of water entering the wetland will not be changed by the proposal. For this reason the proposed development minimizes interference with water patterns discharging into wetlands, consistent with CCP 4.11.12.” **But LOCATION of outfalls is only part of the issue. The other part is VOLUME of discharge.** By collecting runoff in 12 inch pipes along backyards and diverting it and the street runoff into detention vaults and pipes that dump into the wetland area below the site, much of the rainfall that would normally soak into the hillside is being diverted. This has negative impacts on the hillside hydrology and the wetland hydrology – essentially dewatering the hillside and increasing the volume of water that will be dumped by pipes into the wetland below.

7 – Have the new mayor and councilors conducted a site visit to understand the magnitude of the changes to the detention facilities and how they will impact the significant trees on the site? If not, we respectfully request that you postpone any decision until all councilors visit the site to enable you to make a better-informed decision.

We respectfully urge you to postpone any decision on this stormwater plan until after the applicant submits the required lot grading plan. If you do vote to approve it, we urge you to adopt the additional conditions of approval we recommended here.

Sincerely,

Susan and Jeff Morré

Corvallis, Oregon 97333

Richardson, Robert

From:

Sent: Monday, March 21, 2011 5:02 PM

To: Richardson, Robert

Subject: Brooklane Heights

**RE: Brooklane Heights PD
PLD06-00018, SUB06-00006**

Recent newspaper articles for more public hearings related to 2007 approval of Brooklane Heights proposed development have led many of us SW Corvallis landowners to evaluate if we should take time to attend and testify. After my studies of the last 3 years of neighbor's actions, I fully support the stringent and sound conditions imposed by the City, based on their highly trained professional planner's & engineer's guidance, and, additional delays by personal citizens design-change requests via testimony, does not appear to benefit anyone.

Respectfully submitted,

Kathy Phillips

Condition of Approval 20 (City Council Order 2010-007)

20. **Public Water Quality Facility Design & Maintenance** - The applicant shall submit the information required in this condition of approval. This information shall be reviewed for consistency with Comprehensive Plan Policy 4.11.12 and approved through a City Council Public Hearing review process prior to issuance of PIPC permits.

As part of the plans for public improvements the applicant shall provide engineered calculations for storm water quality facilities demonstrating compliance with both criteria outlined in Appendix F of the Storm Water Master Plan, and criteria outlined in the King County, Washington, Surface Water Design Manual. Infiltration facilities are a recommended means of meeting water quality requirements where soil and slope conditions (not more than 10%) permit the use of infiltration facilities and where the facilities will not have an adverse impact on the subject site or adjacent or downhill properties. The water quality analysis shall contain a discussion on the feasibility of implementing infiltration during both wet and dry seasons.

All water quality facilities that are part of the public storm drainage system shall be dedicated to the public and shall be subject to a maintenance agreement requiring the developer to maintain the facilities for two years after acceptance by the City. The maintenance agreement shall be executed prior to acceptance of public improvements and shall incorporate a maintenance plan and a maintenance bond. The maintenance plan shall be submitted as part of the plans for public improvements and shall be consistent with maintenance requirements for stormwater facilities identified in the King County, Washington Surface Water Design Manual. The maintenance bond shall be submitted with the maintenance agreement and shall reference the maintenance plan. The maintenance bond shall remain in effect until the warranty for storm water quality facilities is terminated.

The design for the public water quality facilities shall include a landscape plan that details all landscaping essential to ensure the proper function of the water quality facilities. This functional landscape plan shall be submitted as part of the plans for public improvements. All associated functional landscaping shall be installed and well established prior to any paving activity on the development site.

Comprehensive Plan Policy 4.11.12

- 4.11.12 Development upslope of wetlands shall minimize interference with water patterns discharging to wetlands, and shall minimize detrimental changes in water quality for waters discharging to wetlands.

Condition of Approval 27 (City Council Order 2010-007)

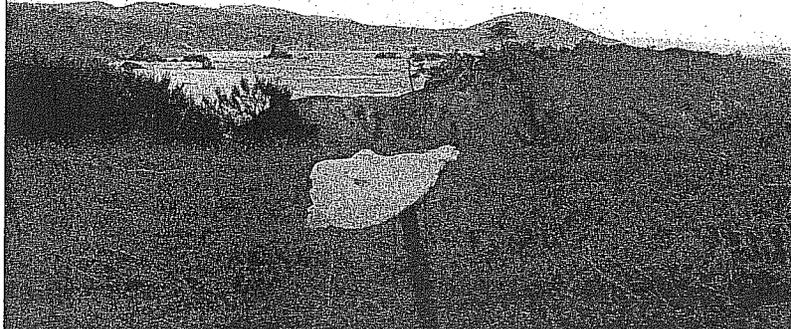
- 27. Lot Grading and Structures** -Mass grading shall be limited to the areas shown on the grading plan identified as Drawing X – Brooklane Heights Grading and Tree Preservation Plan, and Drawing Y – Brooklane Heights Cut/Fill Analysis (Exhibits D. 1, 2). Cuts and fills in the areas permitted to be mass graded shall not exceed the measurements shown in Drawing Y. All mass graded areas, as shown in Drawing Y shall be engineered and constructed such that retaining walls are neither required nor used.

Prior to grading and excavation activities in areas not approved for mass grading, as shown in Drawing Y (Exhibit D.2), the applicant shall obtain approval by the City Council through a public hearing review process, detailing how the grading plan(s) for development on individual lots are consistent with Comprehensive Plan Policy 4.6.7.

Comprehensive Plan Policy 4.6.7

- 4.6.7** In areas where development is permitted, standards in the Land Development Code for hillside areas will achieve the following:
- A. Plan development to fit the topography, soil, geology, and hydrology of hillsides and to ensure hillside stability both during and after development.
 - B. Preserve the most visually significant slopes and ridgelines in their natural state by utilizing techniques such as cluster development and reduced densities.
 - C. Preserve significant natural features such as tree groves, woodlands, the tree-meadow interface, and specimen trees.
 - D. Align the built surface infrastructure, such as roads and waterways, with the natural contours of terrain and minimize cutting and filling in developments.
 - E. Minimize soil disturbances and the removal of native vegetation and avoid these activities during winter months unless impacts can be mitigated.
 - F. Design developments and utilize construction techniques that minimize erosion and surface water runoff.
 - G. Demonstrate a concern for the view of the hills as well as the view from the hills.
 - H. Provide landscaping that enhances the identified open space resources.
 - I. Design developments that consider landscaping management that will minimize the threat of fire on improved property spreading to wildland habitat.

Ban the Plastic Checkout Bags



Oregonians use an estimated 1.7 billion plastic checkout bags every year. Plastic pollution has become a critical problem in our oceans, with as much as 100 million tons now polluting the North Pacific alone. Plastic never biodegrades; it only photo-degrades into smaller and smaller bits, strangling, suffocating and poisoning sea life, including whales, fish and birds.

In addition, plastic bags cost municipalities around the state millions of taxpayer dollars in sewer maintenance and recycling facility repair. Plastic bags are also a nuisance in rural communities as they entangle farm equipment and get caught up in fencing. Cities, counties, and countries around the world are implementing bag fees and bans to address this problem.

BANNING THE BAG IS A CRITICAL STEP TOWARD CLEANING UP OUR OCEANS

Plastic bags are one of the number one items of plastic litter on Oregon's beaches ¹

Plastic litter kills more than a million sea birds and 100,000 marine mammals each year.²

Sea Turtles. Sea turtles mistake plastic bags for jellyfish, one of their main food sources. A recent study of dead Adriatic loggerhead sea turtles found one third had eaten plastic (citation).³

Whales. When plastic bags sink to the ocean floor, they remain intact for decades. Whales swallow the bags while foraging for food and the bags get stuck in their gut.⁴

Birds. Storks and other sea birds get their heads caught in plastic bags.

Fish. Plastic absorbs toxic chemicals up to a million times the ambient seawater concentrations. The National Oceanic and Atmospheric Administration is studying whether fish are poisoned by the toxic plastic and the extent to which the toxins move up the food chain.

BANNING THE BAG WILL SAVE TAXPAYERS AND BUSINESSES MONEY

- Plastic bags and film represent 20-30% of operating expenses for recycling facilities to clean out the sorting machines. Plastic bags represent 60% of the film that clogs these machines.⁵

¹ <http://act.oceanconservancy.org/2007ICC/US/Oregon2007.pdf> which ranks bags as number 6.

² United Nations Environment Programme, "Marine Litter: Trash that Kills," found at http://www.unep.org/regionalseas/marinelitter/publications/docs/trash_that_kills.pdf at p. 10.

³ Lazar, Bojan and Gracan, Romana, "Ingestion of marine debris by loggerhead sea turtles, *Caretta caretta*, in the Adriatic Sea" *Marine Pollution Bulletin* (October 30, 2010) at ; see also *BBC Earth News* at http://news.bbc.co.uk/earth/hi/earth_news/newsid_9155000/9155453.stm

⁴ Cascadia Research Collective and Washington Department of Fish and Wildlife performed the examination and report: <http://www.cascadiaresearch.org/WSeattle-ER.htm>

⁵ Jeff Murray, Far West Fibers presentation

- Local governments that manage waste disposal incur additional costs for pickup and disposal.

Strong, Broad Support

- Portland, Newport, Lake Oswego, Cannon Beach, Beaverton, and Tillamook city councils as well as the Metro Regional Government have passed resolutions supporting a statewide ban.
- More than 400 local Oregon businesses have endorsed banning plastic checkout bags.
- More than 50 environmental and community groups have also endorsed the proposal.



Businesses, local governments, organizations and coalitions support banning the bag in Oregon

Local Resolutions

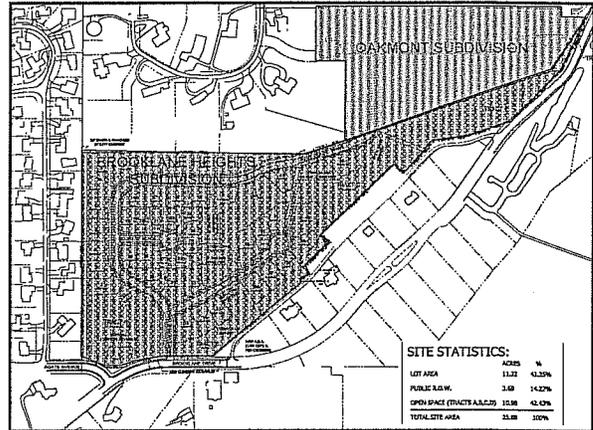
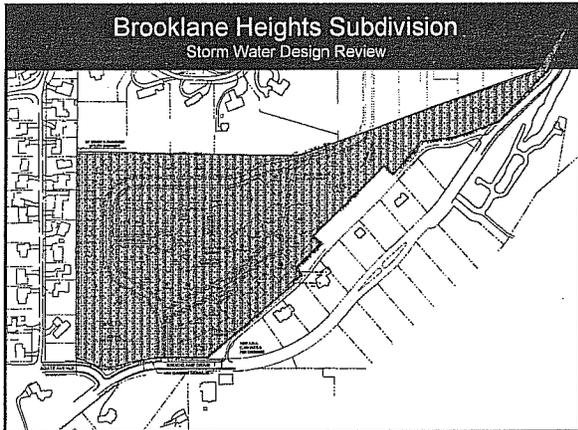
Beaverton, Cannon Beach, Lake Oswego, Metro Regional Government, Newport, Portland, Tillamook

Organizations and Coalitions

Oregon Conservation Network, Association of Oregon Recyclers, Audubon Society of Portland, Environment Oregon, Recycling Advocates, Surfrider Foundation, Tualatin Riverkeepers, Willamette Riverkeepers, 5 Gyres Project, Alliance for Democracy, Association of Northwest Steelheaders, The Central Oregon Environmental Center, Coalition for a Livable Future, Columbia Gorge Earth Center, Columbia Riverkeeper, Food & Water Watch, Friends of the Columbia Gorge, Friends of Forest Park, Gifford Pinchot Task Force, Hood River Valley Residents Committee, Mazamas, National Wildlife Federation, Native Fish Society, Northwest Environmental Defense Center, Oceana, Oregon Business Association, Oregon Natural Desert Association, Oregon Shores Conservation Coalition, Oregon Environmental Council, Oregon Wild, Port Orford Ocean Resource Team, Rachel's Friends Breast Cancer Coalition, SCRAP, Sea Turtle Restoration Project, Sea Turtles Forever, SEE Turtles, Sierra Club, Columbia Chapter of Oregon, Southeast Neighbors (Eugene), Sullivan's Gulch Neighborhood Association (Portland), Vernon Neighborhood Association (Portland), Western Pulp and Paper Workers

Businesses

Nearly 500 businesses from various parts of Oregon, list available upon request



Summary of Process

Application complete in April 10, 2007 - 42 lots on a total of 25 acres, original design as a result of neighborhood input, planning staff input, and site constraints (i.e. topography, trees)

- Preserved oak woodlots
- Minimized public infrastructure
- Minimize long-term impacts by grading site
- Created homes on less than 44% of site

Summary of Process

City Council approved project in September 2007

- 45 lots to comply with diversity of housing CPP 9.5.13
- Further reduce grading to primarily that necessary for roads and public infrastructure

Summary of Appeals

- LUBA 1 – Appealed 7 items, remanded back to City due to inadequate findings... reviewed and approved by City Council
- LUBA 2 – Remanded back to City... reviewed and approved again by City Council with additional findings
- LUBA 3 – City's decision upheld by LUBA

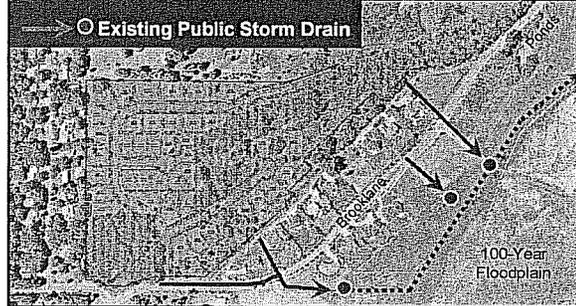
Purpose of this Hearing

- Project has already been approved and upheld by LUBA so this is not the focus
- Review application and design to confirm it meets the intent of Condition 20 (Storm Water Quality and Drainage)... consistency with CCP 4.11.12
- Ensure the intent of Condition 27 (Lot Grading & Structures) is not compromised as a result of the storm water design... consistency with CCP 4.6.7

Purpose of this Hearing

- **Condition 20** – Engineered calculations for storm water quality facilities demonstrating compliance with both criteria outlined in Appendix F of the SWMP, and criteria outlined in the King County, Washington, Surface Water Design Manual... consistency with CCP 4.11.12
- **Condition 27** – Prior to grading and excavation in areas not approved for mass grading... must demonstrate consistency with CCP 4.6.7

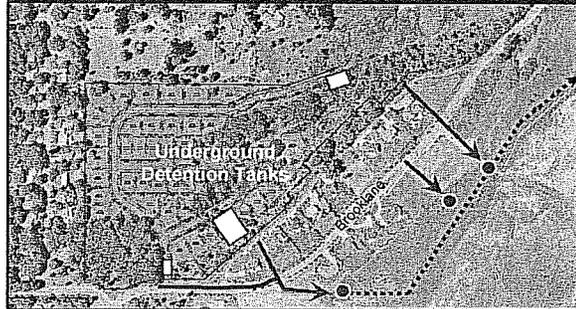
CCP 4.11.12 - Development upslope of wetlands shall minimize interference with **water patterns** discharging to wetlands, and shall minimize detrimental changes in water quality for waters discharging to wetlands



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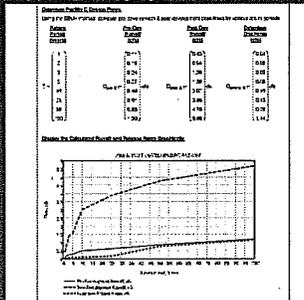


Exhibit II-162

CCP 4.11.12 - Development upslope of wetlands shall minimize interference with **water patterns** discharging to wetlands, and shall minimize detrimental changes in water quality for waters discharging to wetlands

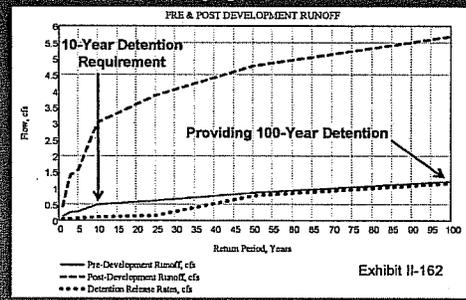


Exhibit II-162

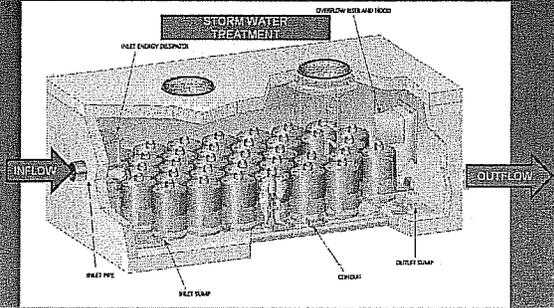
CCP 4.11.12 - Development upslope of wetlands shall minimize interference with **water patterns** discharging to wetlands, and shall minimize detrimental **changes in water quality** for waters discharging to wetlands

Water pattern interference has clearly been minimized by connecting to existing public storm drain facilities and providing detention for the 2-, 5-, and 10-year storms. Additional detention storage exceeds the 10-year storm event.

CCP 4.11.12 - Development upslope of wetlands shall minimize interference with water patterns discharging to wetlands, and shall minimize detrimental **changes in water quality** for waters discharging to wetlands

King County water quality design criteria... primarily requires removal of 80% of Total Suspended Solids (TSS) for the water quality design flow

CCP 4.11.12 - Development upslope of wetlands shall minimize interference with water patterns discharging to wetlands, and shall minimize detrimental **changes in water quality** for waters discharging to wetlands



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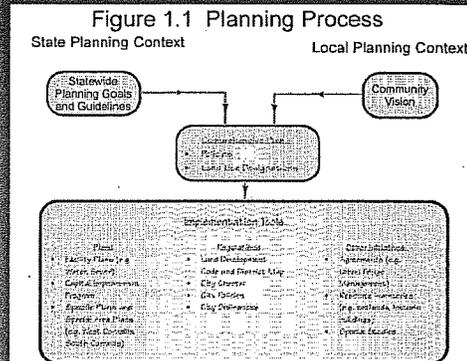
Compliance with King County water quality criteria:

- Section 6.5.5 Approves StormFilters for water quality

CCP 4.11.12 - Development upslope of wetlands shall minimize interference with **water patterns** discharging to wetlands, and shall minimize detrimental **changes in water quality** for waters discharging to wetlands

- The intent of CCP 4.11.12 is clearly achieved with the proposed design through compliance with the Land Development Code, Storm Water Master Plan, and the City's water quality requirements

Comprehensive Plan Policies are not criteria... rather, the Comprehensive Plan is implemented through a variety of mechanisms... primarily the Land Development Code, facility plans, and other studies.



What are the impacts on Condition 27 - Lot Grading -

CCP 4.6.7 – Standards in the Land Development Code for hillside areas will achieve the following:

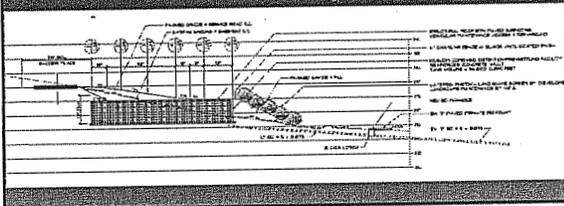
- A. Plan development to fit the topography, soil, geology, and hydrology of hillsides and to ensure hillside stability after development
- B. Preserve the most visually significant slopes and ridgelines in their natural state by utilizing techniques such as cluster development and reduced densities

Approved Grading Plan



Detention & Water Quality Facilities

- Detention Facilities E & W are buried below ground
- Detention Facility C primarily buried with additional landscaping features and grading to enhance view



CCP 4.6.7 – Standards in the Land Development Code for hillside areas will achieve the following

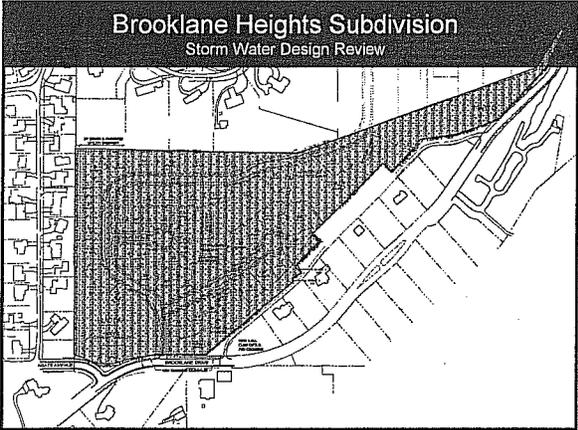
- C. Preserve significant natural features such as tree groves, woodlands, the tree-meadow interface, and specimen trees.
- D. Align the built surface infrastructure, such as roads and waterways, with the natural contours of terrain and minimize cutting and filling in developments.
- E. Minimize soil disturbances and the removal of native vegetation and avoid those activities during winter months unless impacts can be mitigated.

CCP 4.6.7 – Standards in the Land Development Code for hillside areas will achieve the following

- F. Design developments and utilize construction techniques that minimize erosion and surface water runoff.
- G. Demonstrate a concern for the view of the hills as well as the view from the hills.
- H. Provide landscaping that enhances the identified open space resources.
- I. Design developments that consider landscaping management that will minimize the threat of fire on improved property spreading to wildland habitat.

Conclusion

- City Council has approved this project 3 times and LUBA upheld the City Council's decision to approve the project
- This hearing is only about compliance with Condition 20 and impacts on Condition 27
- Compliance with Condition 20 has been clearly demonstrated with a complete storm water design and meeting the intent of CCP 4.11.12 while not compromising CCP 4.6.7



Subject: Brooklane Heights Subdivision (PLD06-00018, SUB06-00006)
Corvallis City Council March 21, 2011 Hearing
Written testimony of Elizabeth Waldron

I submit that making a decision on the adequacy of the proposed storm water master plan without knowing the grading plans for the Brooklane Heights hillside is a serious mistake.

How are we to know if the stormwater plans will be adequate for the eventual water run-off when we have no knowledge of the planned grading/ cut & fills? How do we know if the present plans give adequate protection for exceptional rains, the likes of 1996 which far exceeded expectations? Does the facility proposed have sufficient excess capacity? How do we know this? Who here is so well versed in the Washington Surface Water Design Manual to know if the proposed plan has adequately followed the recommended water management facility plans?

The stormwater plans presented today are a major redesign from those submitted at our last hearing. But we are not told why these changes were deemed necessary. We are not told of the hillside grading plans so we cannot determine if the present plans will be adequate to protect the housing below or the Mary's River Wetland.

I submit that the City of Corvallis will be held totally accountable for any damages that occur because of inadequate stormwater facilities. Please defer judgment of the present master plan until all lot grading plans are known.

Thank you.





DISCLAIMER: Consistent with advice from the Secretary of State's Elections Division and the Secretary of State's Elections Division's March 2008 Publication: 2008 Restrictions on Political Campaigning by Public Employees, the City is concerned that using the City's Web site to distribute materials that are related to the local option tax levy that are not impartial would violate ORS 260.432. The City's archives contain numerous records related to the levy. To avoid advocacy by public employees, and based on the advice of the Elections Division, the full public record related to the levy in the archives is available at the reference desk of the Corvallis-Benton County Public Library. For all other public record inquiries, please visit the City Manager's Office at City Hall, 2300 NW Walnut Boulevard, [email the City Manager's Office](#), or call 541-766-6901.

**THE COMMISSION FOR MARTIN LUTHER KING, JR
MINUTES
March 22, 2010**

Present

Commissioner Perrone – Chair
Commissioner Stumbo - Vice Chair
Commissioner Rosa
Commissioner Shyam
Commissioner Alexander
Commissioner Wilburn

Staff

Linda Weaver, HR Administrator
Kristina Bagley, HR Specialist

Absent

Councilor Raymond – Council Liaison
Commissioner Wright

SUMMARY OF DISCUSSION

| Agenda Item | Action Recommendation |
|--|----------------------------------|
| I. MLK Event Final Details | Discussed and Completed |
| II. Future Events | Discussed and Continued |
| III. Change commission meeting date and/or times | Discussed |
| IV. Other | Discussed |
| V. Adjourn to April 5, 2011 | The Meeting Adjourned at 1:30 pm |

CONTENT OF DISCUSSION

I. Event Final Details –

The Commission discussed a method of recognition for the contribution Sharon Wilson made providing American Sign Language translation at the MLK Event. Commissioner Stumbo moved to provide Ms. Wilson a \$100 honorarium in recognition of her contribution. Commissioner Rosa seconded the motion. The motion carried.

The Commission will prepare a thank you and acknowledgement for the contributions of Council President O'Brien and Corvallis High School Choir Director Aubrey Peterson at the January event.

II. Future Events –

Staff member Weaver reported there is just under \$3,000 remaining in fiscal year 10/11 budget. The Commission discussed various options to consider as work efforts for the remainder of the fiscal year. The Commission discussed offering a performance grant opportunity, which would involve development of the process, advertising, review of grant applications, and award. There was also a discussion of inviting the Benton County Historical Society to make a proposal for the creation of an educational History of Corvallis, to promote community awareness of Oregon's history. There was a mention of the writer workshops presented by Shelley Moon. Sponsorship of the Race Unity Picnic was raised. There was also discussion of moving forward with the concept of a plaque and signage at the MLK Park. Commissioners discussed ensuring the funds are spent in a permanent way.

The Commission asked that Parks Supervisor, Phillips be invited to attend the next meeting to discuss the process to create a permanent plaque to be displayed at the

MLK Park. Commissioners will work on their concepts of a plaque, and quotes for the plaque, and bring them to the next meeting to discuss.

III. Meeting Time

The Commission discussed changing the meeting time to late in the afternoon, on an alternative day such as Monday. They requested that prior to changing the meeting day and time, Commissioner Wright be contacted in regards to his schedule. The Commission did move the April meeting to the first Tuesday, April 5th, to provide the Commission additional time to continue their work efforts on the MLK Park plaque and signage project.

IV. Other –

Commissioner Stumbo moved that the Commission authorize up to \$500 as a donation to the Race Unity Picnic, commissioner Wilburn seconded and the motion carried.

V. The meeting adjourned at 1:30 p.m. to April 5, 2011.

**CITY OF CORVALLIS
ECONOMIC DEVELOPMENT COMMISSION
March 14, 2011**

Present

Elizabeth French, Chair
Skip Rung, Vice-Chair
Sam Angelos
Nick Fowler
Pat Lampton
Ann Malosh
Rick Spinrad
Larry Mullins

Staff

Jon Nelson, City Manager
Ken Gibb, Community Development Director
Marci Laurent, Management Assistant

Visitor

Julie Manning, Mayor

Excused Absence

Dan Brown, Council Liaison
Jay Dixon

SUMMARY OF DISCUSSION

| | Agenda Item | Summary of Recommendations/Actions |
|-------|---|---|
| I. | Call to Order | |
| II. | Approval of February 22 nd Meeting Minutes | Approved with corrections. |
| III. | Visitor Comments | None. |
| IV. | Discussion with Jim Brewer, City Attorney, Regarding Online Discussion, Oregon Public Meeting Law | Information only. |
| V. | Review/categorization of the Commission's Economic Development Objectives. | The Commission began categorization of objectives. |
| VI. | Development of Work Program Timeline | The Commission developed an initial Work Program timeline. |
| VII. | Other Business <ul style="list-style-type: none"> • Minutes • Contact Information - email | Information only. |
| VIII. | Adjournment | The meeting adjourned at 5:15pm on March 28, 2011, at 3:00 p.m. |

CONTENT OF DISCUSSION

I. CALL TO ORDER.

Ms. French called the meeting to order.

II. APPROVAL OF FEBRUARY 22 MEETING MINUTES

The minutes were approved with corrections by unanimous vote.

III. VISITOR COMMENTS - None

IV. DISCUSSION WITH JIM BREWER, CITY ATTORNEY, REGARDING ONLINE DISCUSSION, OREGON PUBLIC MEETING LAW

Mr. Brewer reviewed the information contained in the Memorandum to the Commission. He stated that all information received by the Commission, regardless of the type of format it is sent, is considered a public record. He recommended that if the Commission members wish to maintain a separation between the Commission's business (and therefore part of the public record) and their personal and private matters the easiest and safest way to do so is to have a separate email account to send and receive electronic messages and to also have a separate electronic file folder where the Commission business can be stored.

Mr. Brewer advised against having electronic "serial" conversations regarding the Commission's work as it is difficult for this type of meeting to be open and available for the public to see and/or participate in "live time". He stressed the need to have the conversations during a public meeting that bring the Commission to consensus. He added that it was acceptable to email that you will or won't be attending a meeting, but not to request thoughts or ideas about an item that is clearly within the Commission's work. In response to Ms. French's question about how much lead time was required to let the public know of a specific meeting, he stated about one week.

It was determined that the Ms. Laurent will maintain Commission email correspondence in an Outlook folder, that the Commission members who do not wish to use their home or business email address will provide her with a new email address.

V. REVIEW / CATEGORIZATION OF THE COMMISSION'S ECONOMIC DEVELOPMENT OBJECTIVES

Ms. French lead the Commission through the exercise of categorizing the list of objectives developed at their last meeting. (Attachment A).

It was noted at the end of this exercise that the Commission needs to recognize the existing barriers, what has been tried and did not work, and how to engage the community in this conversation.

VI. DEVELOPMENT OF WORK PROGRAM TIMELINE

Ms. French lead the Commission through the discussion of their initial work program timeline (Attachment B)

Timeline topics discussed included:

- **Enterprise Zone Expansion.** Mr. Nelson stated that the City Council has asked the Commission to make a recommendation regarding whether the Enterprise Zone should be expanded to other areas of the City. He provided an overview of the issue. He stated that expanding the zone is a large work item that would require additional funding and intensive staff work. Ms. French added that the initial work would cost \$70,000 or more just to identify eligible properties.

The Commission had questions regarding what type of properties would be eligible, the criteria and restrictions, and the pros and cons of the zone. Mr. Gibb stated that he would provide a staff report for their next meeting. The Commission agreed they need additional background information to proceed with this discussion. It was agreed that they would set aside time at their next two meetings with their recommendation to the City Council to be made at their meeting on May 9th.

- **Economic Development Interim Funding.** Ms. French stated that the FY 11-12 Budget proposes \$150,000 for Economic Development where historically there has been approximately \$275,000 available for the allocation process. She noted that funding for the Enterprise Zone, staff support for economic development and the Airport Marketing Plan are included in the \$150,000 which leaves approximately \$80,000. She stated that the City Council will need to know by May what this Commission would recommend be funded with these funds in FY 11-12. Mr. Gibb stated that he will prepare a staff report outlining previous years' allocations and programs that were funded. He added that all organizations that have received funding in recent years have been notified that there will not be an allocation process in FY 11-12 in order for the Commission to have the opportunity to develop the future Economic Development Program.
- **Determine Preliminary Priorities for Objectives.** The Commission agreed this should be done at their next meeting.
- **Review Previous Allocation Program.** The Commission agreed that it would be beneficial to review the previous allocation program and hear from the recipients as to what worked, what did not, how they measured their success, what component would they recommend move forward, the one they think is the most valuable, and how they have collaborated to achieve their objectives. The Commission will develop a list of questions for recipients and invite them to appear at a future meeting.
- **Review & Analyze Available Data – Employment and Economic Activity, Information from other Communities.** The Commission agreed it would be useful to review available data on the number and types of businesses in the area, as well as available employment data. LBCC and OSU were mentioned as possible resources for this information. It was suggested that the Commission review what other communities have done, what has and has not worked. The Commission also agreed it would be useful to hear from the City's larger employers, to hear what is working and what is not; what the City might do to make Corvallis more attractive
- **Community Outreach** – The Commission agreed that for the Economic Development Plan to work, it must be supported by the community. They agreed that engaging the community and communicating this effort is necessary.

VII. OTHER BUSINESS. - NONE

VIII. ADJOURNMENT

The meeting adjourned at 5:15 pm.



Community Development
 Planning Division
 501 SW Madison Avenue
 Corvallis, OR 97333

Approved as corrected, March 16, 2011
CITY OF CORVALLIS
PLANNING COMMISSION MINUTES
February 2, 2011

Present

Tad Abernathy
 James Feldmann
 Jennifer Gervais, *Chair*
 Frank Hann
 Tony Howell
 Roger Lizut
 Jim Ridlington
 Biff Traber, *Council Liaison*

Staff

David Coulombe, Deputy City Attorney
 Kelly Potter, Senior Planner
 Jeff McConnell, Development Engineer Supervisor
 Lisa Franklin, Civil Engineer I
 Terry Nix, Recorder

Excused

Steve Reese
 Jasmin Woodside

SUMMARY OF DISCUSSION

| | Agenda Item | Information Only | Held for Further Review | Recommendations |
|------|--|------------------|-------------------------|-----------------|
| I. | Visitors' Propositions | X | | |
| II. | Public Hearing: Land Development Code Text Amendment to Address FEMA Floodplain Maps and Regulations (LDT10-00001) | | X | |
| III. | Old Business | X | | |
| IV. | New Business | X | | |
| V. | Adjournment – 8:30 p.m. | | | |

CONTENT OF DISCUSSION

The Corvallis Planning Commission was called to order by Chair Jennifer Gervais at 7:05 p.m. in the Downtown Fire Station Meeting Room, 400 NW Harrison Boulevard.

I. VISITORS' PROPOSITIONS: There were no propositions brought forward.

II. PUBLIC HEARING – Land Development Code Text Amendment to Address FEMA Floodplain Maps and Regulations (LDT10-00001)

A. Opening and Procedures:

The Chair welcomed citizens and reviewed the public hearing procedures. There will be a staff report and public testimony. The Commission may ask questions of staff, engage in deliberations, and make a recommendation. 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 may 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.

B. Declarations by the Commission:

1. Conflicts of Interest: None.

C. Staff Report:

Senior Planner Kelly Potter reviewed the request to consider adoption of legislative revisions to the Corvallis Land Development Code (LDC) to address new Federal Emergency Management Agency (FEMA) floodplain maps and regulations. She said FEMA began its nationwide map modernization project in 2005 and completed its process to update the Benton County Flood Insurance Study (FIS) and associated Flood Insurance Rate Map (FIRM) on December 2, 2010. The FIS and FIRM will be effective on June 2, 2011. FEMA digitized the current paper FIRM maps associated with the FIS; no new floodplain studies were done. Digitization of the FIRM was based on local topographic maps; some of the new floodplain boundaries are different than those shown on the current paper FIRM maps. The FEMA process for public review and comment has been completed and the new DFIRM (Digitized Flood Insurance Rate Map) maps will be contained in the new FEMA scientific engineering report for Benton County. As part of FEMA's project, an assessment of the City's current LDC was completed by the Oregon Department of Land Conservation and Development (DLCD). That assessment identified certain federal and state regulations that must be implemented in order for the City to remain eligible for participation in the National Flood Insurance Program (NFIP). FEMA directed the City to implement the new DFIRM maps and update its land use regulations by June 2, 2011; failure to do so would immediately remove the community from the NFIP. Banks and insurance

companies must also begin using the new DFIRM maps to determine whether flood insurance is required and to calculate the cost of insurance policies.

Planner Potter said that some of the FEMA map updates will affect the Natural Hazards Overlay on the Comprehensive Plan and Zoning Maps, and the High Protection and Partial Protection Floodplain boundaries on the Natural Hazards Map. Since the revisions are mandated by FEMA, they are allowed through the Map Refinement procedures in LDC 4.5.90 and do not require a formal land use process. Staff are working with DLCD/FEMA staff to implement the changes and they will not be addressed as part of this public hearing process. The new DFIRM is legal to use now and must be used beginning June 2, 2011. A comparison of the floodplain boundaries from the current FIRM and the new DFIRM is available on the City's website. People with questions or concerns about the new FEMA maps are encouraged to contact City staff. Staff can assist with explanations of FEMA processes such as the Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR); can provide a floodplain determination letter for people to send to their bank if their structure is outside the floodplain, even if a portion of the property is within the floodplain; and can provide personalized maps showing the changes in FEMA's 100-year Floodplain boundaries.

Planner Potter said this public hearing is on the amendments to the City's land use regulations. The revised LDC must fully implement the mandatory NFIP floodplain regulations by June 2, 2011. These new standards would apply to properties within the 100-year Floodplain on the new FEMA maps. For properties that contain streams but are in areas where no FEMA study has yet been done, NFIP regulations require further study in conjunction with future development to determine the extent of any 100-year Floodplain boundaries; no study is required to maintain existing development. The new standards would also apply to properties within 100-year floodplain areas identified in future floodplain studies. The Text Amendment and staff report can be found on the City's website, at the Corvallis-Benton County Library, and at the City's Planning Division. The Text Amendment will augment and modify the LDC definitions in Chapter 1.6 so that the terminology related to floodplains is consistent with mandatory NFIP standards; will implement the mandatory Floodplain Development Permit program through standards in a new Chapter 2.11 – Floodplain Development Permit; and will significantly modify Chapter 4.5 by fully addressing the NFIP regulations, renaming the chapter to Floodplain Provisions; and relocating the landslide hazard and hillside development standards to a new chapter entitled Chapter 4.14 – Landslide Hazards and Hillside Development Provisions. The Text Amendment will also involve housekeeping changes to the rest of the LDC to reflect new/changed section numbers, terminology, and cross-references. Planner Potter reviewed key revisions to Chapters 1.4 – Nonconforming Development and 1.6 – Definitions, new Chapter 2.11 – Floodplain Development Permit, renamed Chapter 4.5 – Floodplain Provisions, and new Chapter 4.14 – Landslide Hazard and Hillside Development Provisions, as detailed in the written staff report. She then reviewed the applicable criteria and staff conclusions, as detailed in the written staff report. Based on the criteria and conclusions in the staff report, staff recommend that the Planning Commission recommend that the City Council approve the proposed Legislative Amendment to the Land Development Code (LDT10-00001), with the language as proposed in Attachment A, and based upon findings 1-8 listed on pages 43-46 of the staff report.

D. Public Testimony in favor of the proposed action:

Terry Ravlin said he is testifying in favor because it seems clear that the sanctions for not approving the request are so severe that he doesn't see that there are any options. His questions, which he doubts the Commission can answer, are whether anyone has made a representation that the new maps are more accurate, who made that representation, what that representation is based on, and how much more accurate the new maps are represented to be.

E. Public Testimony in opposition to the application:

David Steele said that having the federal government make everyone get flood insurance sounds to him like the fox guarding the henhouse. He noted that the healthcare plan recently passed by the Obama administration is going to the high court; he asked where the federal government gets the right to require flood insurance and if people don't think this will also go to the high court.

F. Neutral Testimony:

Patricia Benner said she was on the Stormwater Planning Committee (SWPC) and she is a stream ecologist; she would like to bring some institutional memory and thoughts to this process. The SWPC gave thought to the two types of water courses and realized that the impacts are greater with one development on a local stream than with one development on the larger rivers. The SWPC suggested policies related to new development and the Natural Features process went forward on those recommendations. The SWPC recognized that some places were already developed in the floodplain and hoped that, over time, the City could move or improve the quality of that development for a healthier floodplain situation. Ms. Benner said she has been amazed at how much damage happens after a flood event and how angry citizens become with the City; there are costs and conflicts associated with development in the floodplain. She said it may be helpful to encourage or require people to put houses on pilings when they redevelop to reduce conflict and to show potential buyers that there is something different in the landscape.

Ms. Benner said fish go to the floodplain to feed and the floodplain is important for managing excess water and for managing kinetic energy in flood water. She said we need to think about more than FEMA's goals. She said she cannot think of a situation where walls are appropriate in the floodplain; they can fall or isolate part of the floodplain. Ms. Benner expressed concern about the 5-feet per second velocity as a standard for when one has to get a permit for a fence; she would suggest a 1-foot per second standard. She distributed information taken from *Stream Hydrology: An Introduction for Ecologists*, and said the velocity required for erosion for small and large particles is about 4-feet per second; for medium-sized particles is less than 1-foot per second.

Ms. Benner requested that the record be held open.

G. Request to Hold the Record Open:

MOTION: Commissioner Howell moved to hold the record open for seven days. Commissioner Hann seconded the motion and it **passed** unanimously.

The record will be held open until February 9, 2011, 5:00 p.m. for additional written testimony.

H. Questions from the Commission:

Chair Gervais asked for a staff response to Mr. Ravlin's questions about whether the new maps have been represented as being more accurate. Planner Potter said that FEMA has gone through its public process and has directed the City to use the new maps. FEMA has said the digital format is typically more accurate. The City is not making a formal judgment because these are federal maps that the City has no say over. If people disagree with what is shown on the FEMA maps, City staff will help them understand their options and help them through the processes available to try to exempt their property from the floodplain.

Chair Gervais asked for a staff response to Mr. Steele's concern regarding the insurance requirement. Planner Potter said that, post-Katrina, the federal government is leaning heavily on banks to require flood insurance with mortgages. If people own their own home or owe less than \$5,000, insurance is not required. The City does not have rules requiring insurance but is encouraging citizens to understand requirements associated with financing and to be proactive.

Commissioner Howell reviewed several questions that he emailed to staff; that email is included in the materials previously distributed. He said some of the definitions are missing the "in any given year" phrase after "one percent chance or greater of flooding"; Planner Potter said staff will look at that. He reviewed his concern that the Public Works Urban Stream Maintenance Guidelines have evolved over the years in a way that is not necessarily tied to stormwater policies or natural features requirements; he would like to have more discussion about this during deliberations. Another general area he would like to include in deliberations is the subject of volumetric exchange and the intent of Code requirements, which were developed shortly after the 1996 flood event. He would also like to discuss the issue of fences and walls; FEMA has a single focus in this area, but he would like to have a discussion about the City's multi-level focus and how to have standards that are consistent with Comprehensive Plan policies, especially related to partial protection zones.

Commissioner Hann asked if information about the LOMA and LOMR can be found on the City's website. Planner Potter said that information is not on the City's website because the City is not the processor of those applications; however, the information is available on FEMA's website and staff are available to help citizens through the process. She stressed that citizens are encouraged to contact City staff for assistance.

In response to further inquiry from Commissioner Hann, Planner Potter said the regulations include specific information about flow-through design; that information is on the City's website and staff are also available to help citizens with that information.

III. OLD BUSINESS:

Chair Gervais announced that Commissioner Abernathy is no longer able to serve as liaison to the Housing and Community Development Commission (HCDC). Commissioner Lizut will now serve in that position.

IV. NEW BUSINESS:

Planner Potter said that deliberations on the Land Development Code Text Amendment to address new FEMA maps and regulations will be held on February 16, 2011. A third meeting date has been reserved for this issue if needed.

Commissioner Ridlington expressed appreciation for the staff report tonight, which provided information to citizens on how to access information and assistance on the floodplain regulations even though that was not the focus of the public hearing. He said this seemed to preemptively address the concerns of the most of the citizens in attendance. Several Commissioners agreed.

VI. ADJOURNMENT: The meeting was adjourned at 8:30 p.m.

$$\text{Relative bed stability (RBS)} = \frac{V_c}{V_b} \quad (7.13)$$

Received
at 2/2/11
P/C Hearing

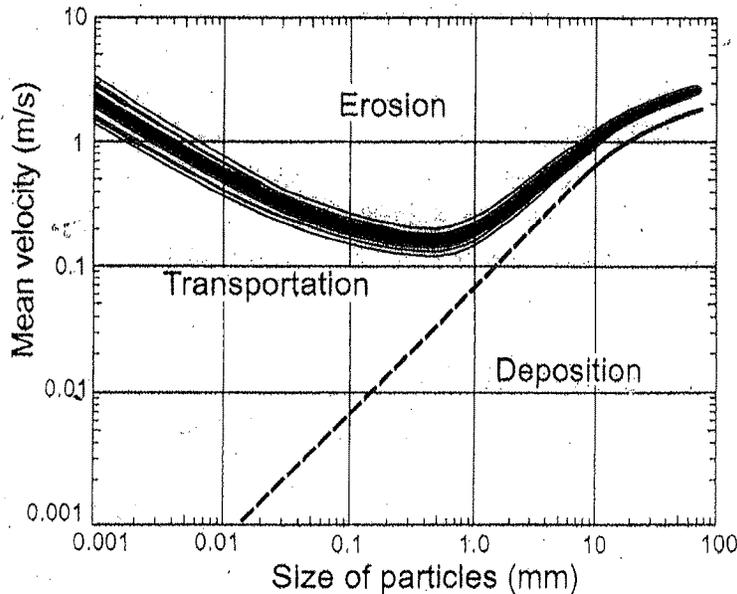


Figure 7.18. Hjulstrom curves showing the limiting velocities required for erosion, transportation and deposition of uniform material. Adapted from Hjulstrom (1939), AAPG ©1939, reprinted by permission of the AAPG whose permission is required for further use

from: Gordon, et. al. Stream Hydrology
An Introduction for Ecologists

for small + large particles:

velocity required for erosion = ~4 ft./sec.

for medium-sized particles:

velocity required for erosion = ~0.6 ft./sec.



Community Development
 Planning Division
 501 SW Madison Avenue
 Corvallis, OR 97333

Approved as submitted, March 16, 2011

**CITY OF CORVALLIS
 PLANNING COMMISSION MINUTES
 February 16, 2011**

Present

Jennifer Gervais, *Chair*
 Frank Hann
 Tony Howell
 James Feldmann
 Jim Ridlington
 Jasmin Woodside (arr. 7:07 pm)
 Biff Traber, *Council Liaison*

Staff

David Coulombe, Deputy City Attorney
 Kevin Young, Planning Division Manager
 Kelly Potter, Senior Planner
 Jeff McConnell, Development Engineer Supervisor
 Lisa Franklin, Civil Engineer I/Certified Floodplain
 Manager
 Mark Lindgren, Recorder

Excused

Tad Abernathy
 Steve Reese
 Roger Lizut

Visitors

Annette Mills

SUMMARY OF DISCUSSION

| | Agenda Item | Information Only | Held for Further Review | Recommendations |
|------|---|------------------|-------------------------|---|
| I. | Visitors' Propositions | X | | Annette Mills highlighted the March 9 Annual Sustainability Fair and Town Hall. |
| II. | Deliberations- Land Development Code Text Amendment to Address FEMA Floodplain Maps (LDT10-00001) | | | Main motion to recommend LDC Text Amendment (LDT10-00001) approval to the Council passed 4-0, with one abstention; along with amending motions. |
| III. | Minutes: January 5, 2011 January 19, 2011 | | | Jan. 5, 2011 minutes approved as corrected. Jan. 19, 2011 minutes approved as presented. |
| IV. | Old Business | X | | None. |
| V. | New Business A. Planning Manager's Update. | X | | Manager Young presented updates. |
| VI. | Adjournment – 9:20 p.m. | X | | |

CONTENT OF DISCUSSION

The Corvallis Planning Commission was called to order by Chair Jennifer Gervais at 7:04 p.m. in the Downtown Fire Station Meeting Room, 400 NW Harrison Boulevard.

I. VISITORS' PROPOSITIONS:

Annette Mills of the Corvallis Sustainability Coalition invited Commissioners and the public to the March 9 Annual Sustainability Fair and Town Hall at the CH2M Hill Alumni Center at OSU. She noted that this year's focus is on economic sustainability.

II. DELIBERATIONS- Land Development Code Text Amendment to Address FEMA Floodplain Maps (LDT10-00001):

Senior Planner Kelly Potter noted there was a public hearing at the previous meeting, which was then closed. She noted that the written record was held open for seven days, during which time additional testimony was received and mailed to the Commission. Additional testimony beyond that period was sent to Commissioners via an emailed memo yesterday. She recapped the process to this point, saying that the Land Development Code (LDC) requirements for all Natural Resources and Natural Hazards were developed during a lengthy public process as part of the Natural Features Project between 2000 and 2004. The current LDC represents a balance between Natural Resources and Natural Hazards protection, housing opportunities, and economic development opportunities.

The Code changes proposed as part of this legislative amendment to the LDC are in direct response to a mandate by the Federal Emergency Management Agency (FEMA). They will result in an increase in restrictions in the 100-Year Floodplain above those which were there after the Natural Feature Project. An entirely new floodplain development program is being introduced, along with numerous new development standards. Planner Potter said that staff sought to work the mandated FEMA requirements into the existing package of Natural Hazards and Natural Resource standards as much as possible. Staff sought to introduce flexibility for property owners while still complying with the FEMA mandate, along with the prior balancing efforts done during the Natural Features Project. The LDC Text Amendment does not revisit the final balancing accomplished as part of the Natural Features Program and does not further restrict development unless directly mandated to do so by FEMA.

Planner Potter said four main concerns were raised during the Planning Commission public hearing process. The first was related to the reference in the Code Text Amendment to the Public Works Urban Stream Maintenance Guidelines. The concern was that the Guidelines did not seem fully consistent with protecting the properly functioning condition of streams, and that they allowed things above and beyond what the current LDC allows with regard to Riparian Corridor preservation and the like. The references where the Urban Stream Maintenance Guidelines are mentioned are in a list of things that are allowed to be exempt from obtaining a floodplain development permit. She noted that, even though there was a list of exemptions in terms of what things need a floodplain permit and what don't, that does not exempt one from complying with all the rest of the requirements of the LDC. The requirements in Chapter 4.13, which specifically deal with riparian corridors, still apply, and any of the changes in the Text Amendment are in the context of those requirements. This should not provide any additional leeway for stream maintenance. Planner Potter stated there was additional information on the matter in the memo; staff believes that because the

maintenance occurs in the context of the rest of the LDC requirements, no changes are needed in the Text Amendment to address this issue.

Another concern raised was regarding fences and walls and the threshold used to determine whether a fence or wall was exempt from the need for a floodplain development permit. Section 2.11.40 in the proposed Text Amendment outlines activities that are exempt from the floodplain development permit process. That section notes that if a fence or wall is located in an area where the floodwater velocity is less than five feet per second, then the fence or wall is exempt and a floodplain development permit is not needed. Testimony asserted that five feet per second is not a slow flow, that erosion can occur at lower velocities, and that several parts of the Text Amendment would conflict with existing floodplain protections. That testimony cited sections including Section 2.11.40 and parts of the fence design standards table in Chapter 4.5 (Section 4.5.110.12). Specifically, the concern raised was that there would be conflicts with existing protections in the High Protection Riparian Corridor areas, in Floodways, High Protection Floodplains, and similar areas. Planner Potter said that there may have been a misunderstanding of the issue. She noted that any fences or walls that are proposed must also comply with the rest of the Land Development Code's requirements, which are not being relaxed. She clarified that where you already *are* allowed to do a fence, then these new fence and wall requirements would kick in. Where fences and walls are not allowed, then the point is moot.

Planner Potter highlighted the lead-in statement to Section 2.11.40, which outlines the floodplain development permit exemptions. That lead-in statement provides the context for activities that are exempt from that permit. The provision states, "*If allowed by other applicable chapters in this Code (floodplain development may be prohibited per Chapter 4.5 - Floodplain Provisions, or other restrictions may apply) the following types of development are exempt from the Floodplain Development Permit process...*". The current Code prohibits fences and walls in highly protected floodplain areas such as High Protection Floodplain and Floodway areas. The Text Amendment would not change this fact. Where Code provisions allow fences and walls to be built in other floodplain areas (such as Partial Protection Floodplain areas), if the floodwater velocity is less than five feet per second, a property owner would not need to get a Floodplain Development permit and would not be subject to additional design standards. Fences and walls can be constructed in these areas today, under the current Code; the proposed fence and wall standards are not a relaxed standard.

The Text Amendment increases fence and wall restrictions, over and above what is required today. If you happen to propose a fence or wall in an area with a floodwater velocity of at least 5 feet per second, you will now be subject to design standards and be required to obtain a Floodplain Development Permit. She added that the issue of fences was a difficult subject due to the small size of urban lots; instituting permit programs for fences and walls is difficult and can cause considerable frustration to landowners. Staff believes that since FEMA is not mandating fence and wall standards that are stricter than those included in the Text Amendment, it is not appropriate to go to an additional level of restriction for fences and walls beyond what is proposed.

Planner Potter stated that volumetric exchange represents a balance between cut and fill and is a concept that exists in the current Code. The Code allows use of that tool for properties in the floodway fringe areas of the Willamette River, Mary's River, and the Millrace. It currently does not allow one to use volumetric exchange in other floodway fringe

areas. After looking at other areas of the community, there are small partial protection floodway fringe areas along streams that could be helped by using the volumetric exchange tool. Examples include partial protection floodway fringe areas along Dixon Creek, the urbanized portion of Dunawi Creek, and a small area on OSU where the Oak Creek floodplain meets the Mary's River floodplain. Many of these areas have Floodway protection for a good part of the floodplain, so there were fairly limited areas of partial protection floodway fringe along those urbanized sections of streams. Planner Potter stated that the overall impact of allowing the volumetric exchange tool to be used on those partial protection floodway fringe properties would be fairly negligible. Staff recommended adding those areas to the areas where volumetric exchange was allowed in order to provide flexibility for property owners. She stated that some of these properties have grades that may only be six inches shy of the required finished floor elevations. In these cases, property owners could probably achieve the balanced cut and fill associated with volumetric exchange by doing a small, fairly evenly distributed, amount of regrading.

There are instances where people are allowed by FEMA to construct a garage below the base flood elevation. In these situations, the garage is classified as non-habitable. However, safety problems can be created down the road of the property owner, without City permission, changes the structure into habitable area. If volumetric exchange were allowed within initial construction of the garage, in many instances the garage could be built to achieve a habitable status (the finished floor is one foot above the base flood elevation) and the safety problem could be avoided.

Other practical considerations support the need for volumetric exchange in these additional urbanized partial protection floodway fringe areas. For example, even if flow-through design is used to construct a garage, getting the driveway up to meet it would require a fill area. The current Code doesn't allow such a fill, even as a balanced cut and fill on a site, outside the floodway fringes of the Willamette and Marys Rivers and the Mill Race. This type of dilemma shows the practical construction issues that can arise in the other urbanized partial protection floodway fringe areas. The proposed expansion of volumetric exchange to include all partial protection floodway fringe areas is seen as a way to provide flexibility to property owners, while still being consistent with the existing Natural Features Program. It is also not anticipated to cause major impacts to the floodplain or decrease stream functionality. The reason that the currently mapped partial protection floodway fringe areas outside the Willamette and Mary's Rivers and Millrace floodplains have partial protection is in recognition of their already urbanized state.

Regarding testimony concerns about the proposed Text Amendment's consistency with Comprehensive Plan Policy 4.8.2, the Natural Features Program process looked at sub-parts of that Comprehensive Plan policy very closely; there is a lot of subjective language in the policy that allows balancing. This balancing was done as part of the Natural Features Project. All the policies of the Comprehensive Plan were balanced, in terms of Natural Hazard and Natural Features protection, and housing and economic opportunities. The current Code reflects the conclusions reached at the end of those prior balancing efforts. The current Land Development Code and the proposed Text Amendment are not in conflict with Policy 4.8.2.

The list of performance criteria for volumetric exchange is in the Code, but page 7 of the February 15, 2011, supplemental memo to the Planning Commission describes two small changes that would ensure that no ponding of water and no off-site drainage impacts would

be allowed as a result of trying to implement volumetric exchange. For example, creating a pond would impact the function of the floodplain. Also, you don't want a design that causes new or increased drainage onto neighboring properties. Planner Potter said staff recommends those changes.

Planner Potter related that there was a missing phrase in the FEMA Federal Flood Zone definitions in Chapter 1.6 - Definitions. Staff recommended that the phrase "in any given year" should be added to "one percent chance or greater of flooding". FEMA directed the City to ensure that floodplain-related Code definitions use the phrase "the flood having a one percent chance of being equaled or exceeded in any given year". She noted that FEMA had not updated its own Federal Flood Zone definition table to reflect the direction it gave the City. Staff recommends that the proposed Federal Flood Zone definition in Section 1.6.40 be amended to incorporate the correct updated FEMA direction.

Planner Potter highlighted the question Chair Gervais raised in her email today about where the five feet per second floodwater velocity standard came from for fence and wall exemptions to floodplain development permits. The five feet per second floodwater velocity standard in the text that exempts someone from having to obtain a floodplain development permit for a fence or wall came from FEMA Region X and the State Department of Land Conservation. Secondly, Chair Gervais asked in her email how fast water had to move to create a pressure of 20 pounds per square foot; Planner Potter explained that there wasn't really a relationship between water velocity and water pressure. Standing water with some gravity will open flow-through flaps in fences; the figure is found in the table in Chapter 4.5. She said there was an incorrect cross-reference that Chair Gervais found that staff would fix (Section 4.5.110.12a references a section in the Floodplain Development Permit Chapter that does not exist).

Planner Potter related that Chair Gervais' email also asked how the Floodplain Administrator would determine the floodwater velocity if FEMA doesn't give it; presumably, the intent is to figure out conditions during a 100-year flood event. Planner Potter explained that the Flood Insurance Study (FIS) text that accompanies the flood insurance rate maps has the floodwater velocity information in it. As an analogy, Planner Potter said base flood elevation cross-sections along the various streams in Corvallis are also included in the FIS. If someone has property in between those cross-sections, he/she comes to Certified Floodplain Manager Lisa Franklin in Development Services, and she interpolates the base flood elevation for his/her property. Similarly, there are floodwater velocities in the flood insurance study for various points along Corvallis streams; if someone asks about property between these points, staff would help him/her interpolate the information to get a precise speed. For areas *outside* where FEMA has studied, there is nothing in the flood insurance study that addresses it. The simplest option for a property owner in those circumstances is to simply get a Floodplain Development Permit and comply with fence and wall design standards in Chapter 4.5. Alternatively, the property owner could do his/her own floodwater velocity study; but it would be cheaper and easier to simply get a floodplain development permit and comply with the proposed Code design standards.

Commissioner Frank Hann asked if a property owner wanted to do a Letter of Map Amendment (LOMA) to do a modification to that, whether the City would be able to try to interpolate that; Planner Potter replied that the LOMA process is a different process. It involves a property owner having a property surveyed so that he/she can prove that the actual field base flood elevations for that site are above that base flood elevations shown on

the flood insurance rate map. The LOMA process formalizes the survey data and removes part or all of the property from the 100-year floodplain (depending on the results of the field survey). Commissioner Hann summarized that it would require an outside contractor. Planner Potter said that was correct and that when a property owner comes in and questions the FEMA points, staff then suggest the owner hire his/her own surveyor and staff helps him/her through the FEMA application process; many LOMAs have been approved by FEMA throughout the community.

Commissioner Hann asked about the recommended change in language stating that a property owner must demonstrate that changes will not result in alterations to hydrology, cause erosion, ponding, new or increased drainage on neighboring properties, or other problems. He noted that some communities have chosen to do flood control projects in order to reclaim land by diverting floodwaters to adjacent low-lying areas; however, if the City tried to do that in the future, this language would constrain that choice. Planner Potter disagreed; she said this Code provision just prohibits ponding associated with volumetric exchange in the partial protection floodway fringe areas. If someone is digging a pond in a back yard and it is not designed to connect to anything, that is the scenario the "no ponding" requirement is designed to address. Commissioner Hann said the phrase that prohibits "new or increased drainage on an adjacent property" implies that the City could not divert floodwater to a neighboring property, even if it is part of a municipal plan. Planner Potter said that what Commissioner Hann was contemplating was greater in scope than what would happen through volumetric exchange.

Commissioner Hann asked the date that FEMA created the base floodplain elevations; Planner Potter replied it did so in 1984. Commissioner Hann said it appeared that the floodplain isolated cul-de-sacs from Satinwood to Maxine, for example; he asked if that created a problem for the City in terms of planning for evacuations or creating responsibility for that. Planner Potter replied that every community has these floodplain areas; it is only a matter of who is subject to regulations or flood insurance with a mortgage bank loan, and put on notice to make their property safer by potentially taking advantage of what one can do under one's home to increase venting, etc.

Commissioner Hann asked if such areas, which require crossing a floodplain area for access, would be allowed today; Planner Potter replied that it depends what part of the Code you are talking about. For example, there are exceptions for streets in all the differently designated floodplain areas. As part of the initial land use review of those types of projects, Public Works would ensure that there are ways in and out of sites; Block Perimeter criteria requires ways in and out and seeks to avoid isolated cul-de-sac situations. Engineering Supervisor Jeff McConnell concurred, adding that it is rare to have isolated areas with such issues; it is something to look at in designing streets and, if necessary, to discuss with the Fire Department.

Planning Division Manager Kevin Young, responding to Commissioner Hann's earlier question, highlighted provisions of the Code that address watercourse relocation, such as Section 4.5.80.02, saying that these are very rare circumstances. This Code provision describes circumstances and extremely stringent requirements that would have to be met and in place before the City would allow relocation of a watercourse, though it is conceivable it could be done.

Commissioner Tony Howell stated he fully concurred with Planner Potter's statement about trying hard not to revisit the balancing that went on during the Natural Features Project, which also incorporated the policies already in place from the Stormwater Master Plan (which also looked at flood hazard areas as part of a system that included the riparian corridor, wetlands, and vegetated areas).

Regarding Fences and Walls in the table in 4.5-1 (Attachment 371 in the staff report), Commissioner Howell highlighted the middle column for fences and walls in floodways. It seems as if little is allowed in floodways except what is permitted under Section 4.5.80.01. It doesn't seem to matter much what kind of fence it is. He said that "B" was the most descriptive. He asked whether that would apply to a line under a floodway; otherwise people might mistakenly be given the idea that they could engineer something. Planner Potter replied that the section states that no encroachments are allowed within the 0.2-foot floodway with the exception of bridges, infrastructure, utilities, or water-dependent uses for which it may be demonstrated through hydrologic analysis done by an engineer, etc., that the proposal essentially would not cause a problem.

Planner Potter said the language primarily just impacts City properties or facilities, though it is conceivable that there could be private bridges. If the City were trying to build a fence around a water intake, the type of fences that would be allowed in those limited circumstances would be Types A and B, an open barb or barbless wire fence no more than one horizontal strand per one foot of height (fairly open). The second kind is open pipe or rail fencing that occupies no more than 10% of the fence area; that is fairly open. You would still have to meet the exceptions. Commissioner Howell said the language should not frustrate people who think they've found an opening. Planner Potter agreed, saying that Section 4.5.80.01 also stipulates "no rise in base flood elevation"; she suggested clarifying language to meet Commissioner Howell's concerns by dittoing what is stated in floodway Column A and B for the third and fourth rows as well.

Commissioner Howell said in regards to the lead-in statement to Section 2.11.40, the section that lists activities that are exempt from the need for a floodplain development permit (page A-192), he suggested adding "may be prohibited as per Chapter 4.5 Floodplain Provisions or Chapter 4.13 Riparian Corridor and Wetland Provisions" to help guide people to learn where they could not do an activity. Planner Potter replied that it was a good idea.

Commissioner Howell said the one area not precisely protected is the partially protected floodway fringe, except it is not clearly allowed either; the only part that he could see that applied was the accessory structures less than 200 square feet (page A-367, Section 4.5.110.07.b related to residential construction). He said there were many situations in which fences have been considered accessory structures for other rules; this language seems to require engineering for all fences. Planner Potter replied that Section 4.5.110.07.b only applies if you're proposing new construction in terms of actual buildings and structures less than 200 sq. feet; it would be difficult to apply the standards in Section 4.5.110.07.b to fences and walls. Planner Potter said that Section 4.5.110.07 is in the overall construction standards section of 4.5.110; Section 4.5.110 states how construction must occur for activities that are allowed by Section 4.5.100. In terms of determining whether a fence or wall could be allowed, applicants would go back to partial protection base standards in Section 4.5.100. In Section 4.5.110 – the construction standards, there is a separate section for fences and walls and it is Section 4.5.110.12. Section 4.5.110.12 clarifies that Section 2.11.40 addresses fences and walls that are exempt from the need for compliance with

Section 4.5.110.12. Because both Section 4.5.110.07 (regarding accessory structures) and Section 4.5.110.12 (regarding fences and walls) are both subsections of the same parent construction standard section of 4.5.110, she thought it would be evident that Section 4.5.110.07.b was not intended to apply to fences and walls.

Commissioner Howell said the problem with standards for Partial Protection is that they don't clearly state whether fences are either allowed or not; they currently only address volumetric exchange and parking limitations. He asked if everything else was allowed if not stated otherwise. Planner Potter replied that a wide gamut of activities are allowed in Partial Protection areas, provided applicants can meet the performance standards in the construction and development standards. Planner Potter highlighted the top two paragraphs for the partial protection standards in Section 4.5.100 – Standards in Partial Protection Floodway Fringe Areas (page A-361). The first sentence reads, *"The following standards shall apply to activities and development in Partial Protection Floodway Fringe areas as identified in the Natural Hazards Map."* She said that the activities and development will be regulated by the underlying zone and secondly by the listed performance standards in Section 4.5.100. The introduction to that section continues, *"In addition to the requirements of the underlying zone, the following limitations and exceptions shall apply to activities within the Partial Protection Floodway Fringe. Where applicable state or federal regulations provide greater restrictions, such regulations shall apply..."* As part of this proposed Text Amendment, a new sentence is added after the second lead-in paragraph. That sentence reads, *"Except as provided in Sections 4.5.100.01 and 2.11.40, the placement of fill is prohibited within Partial Protection Floodway Fringe areas."* Those exception sections include the volumetric exchange sub-section which is Section 4.5.100.01. Subsection 4.5.100.02 pertains to parking limitations; and the third subsection (Section 4.5.100.03 on page A-363) is critical, because it cites that compliance is also required with a number of other Code sections and those other Code sections are listed with cross-references. The cross-referenced sections include the mandatory construction standards in Section 4.5.110, etc. You are allowed to do any activity or development in the Partial Protection Floodway Fringe area, provided the underlying zone allows it, and provided you meet all these performance standards.

Commissioner Howell asked if, in Section 4.5.110.07.b, the term "Accessory Structures" applied to fences in terms of construction standards; Planner Potter replied that it didn't in this context; fences and walls have their own provisions in Section 4.5.110.12. Commissioner Howell replied that the term "Accessory Structures" is used in other parts of the Code in a manner that includes fences and walls; they seemed to be included in one place in the Code but not another. It is not that they are not allowed by Section 4.5.110.07.b; it's just that they have to meet engineering standards. It is common to call fences and walls structures. Planner Potter said that Section 4.5.110.07.b could be clarified to state that the provision does not apply to fences and walls and that fences and walls in this context are addressed by Section 4.5.110.12. However, she thought that this point would be self-evident as one reads through Section 4.5.110.07.b. She added that perhaps a simple cross-reference would help. Commissioner Howell noted that often people are surprised when things are considered structures. Planning Division Manager Young suggested simply inserting a parenthetical, such as "Standards for fences and walls are contained in 4.5.110.12."

Commissioner Howell stated that, regarding volumetric exchange, during the Natural Features Project and the Stormwater Master Plan Project there was a lot of time spent

balancing development and natural features, and determining where volumetric exchange should or should not be allowed. This proposed Text Amendment recommendation makes a strong deviation from that process by allowing volumetric exchange in smaller stream areas. It was very clear in both processes that the choice was consciously made to require flow-through design in the smaller stream systems because of the type of hydrology there. When garages were discussed during that process, it was believed that since they were not habitable, people could put them at grade and just take responsibility for elevating stored items. He agreed that the issue of habitation should be dealt with proactively; also, that it is harder to incorporate flow-through design in commercial and industrial structures. These issues should be able to be accommodated with the previous balancing.

Commissioner Howell asked why flow-through design isn't fairly practical for situations involving residential non-garage areas, where people often have crawl space beneath and where the finished floor is typically required to be above the base flood elevation. It was thought that over time, as people redevelop and rebuild, more and more residential structures would become flow-through in problem areas that probably should not have been developed in the first place. Also, flow-through design would make people buying property aware that a property was in the floodplain; property buyers should check on whether or not they will need a raft.

Commissioner Howell said he wasn't clear on the need for an alternative to flow-through design for habitable structures; Planner Potter said that many people will indeed want to take advantage of flow-through design if they can do so, since it will really help them with flood insurance costs. In many cases, if the existing home already has a crawlspace below, they can incorporate additional venting, etc. and other techniques to reduce flood risk and flood insurance costs. She said staff didn't anticipate wholesale use of volumetric exchange for additions and other construction; the idea was just to create the possibility for people to use it in unique circumstances; it was thought that the overall expansion of the ability for people to use the volumetric exchange tool would cause negligible impacts. It is, however, a very valuable tool for properties where the grade change needed to achieve the required finished floor elevation is so small, that raising it to do the flow-through design would raise it a good deal higher than needed to meet a finished floor elevation of one foot above base flood elevation. The expansion of the ability to use the volumetric exchange tool seeks to accommodate owners of flatter lots that are only slightly below base flood elevation, where there is not a large grade differential needed to achieve a finished floor elevation of one foot above base flood elevation. Other examples could be construction of an addition or construction of patios or walkways and trying to connect those to a habitable building; volumetric exchange could be useful for providing additional flexibility for such transitional areas. She didn't anticipate wholesale use of the tool, since most property owners would probably use flow-through design for such construction as a bedroom addition, for example.

Floodplain Manager Lisa Franklin added that the current Code requires that substantial improvement projects (a substantial improvement is valued at more than 50% of the value of a home) and new residential construction projects require the home itself to have flow-through design. Regarding the issue of non-habitable spaces at grade, in order to elevate them and have flow-through design under them, you have to elevate the driveway. She noted that in her experience in the building permit office, there were a lot of illegal conversions of garages and non-habitable spaces, creating life-endangering situations. It would be desirable to avoid that by allowing minimal changes to a lot; most of the time, six inches of elevation difference are all that is required.

Commissioner Howell asked if the wording of Section 4.5.110.07.a (pages A-366 & A-367) that talks of having a lowest floor elevated to a minimum of one foot above base flood elevation meant that it could be either on fill or use flow-through design; Floodplain Manager Franklin said that was true. However, Section 4.5.100.01 clarifies where volumetric exchange is allowed. Commissioner Howell said the language met the intent of the past balancing efforts, but suggested clarifying the language with reference to "habitable areas." He suggested the Code allow access transition areas (driveways and garages) to use volumetric exchange.

Commissioner Howell asked about new standards still requiring flow-through design for new construction and substantial improvements; Planner Potter replied that what is being required is one foot above base flood elevation; that could be achieved in a number of ways. There is already volumetric exchange in certain parts of the community; it is proposed for other areas that already have a number of residences. You'd have to be doing volumetric exchange on site; you couldn't bring fill to the site in order to raise a portion of a structure. In these areas, most are residentially zoned; there may be commercial structures and churches that find it more challenging to achieve flow-through design everywhere.

Commissioner Howell summarized that in small stream partially protected floodway fringe areas, he thinks it appropriate to require all flow-through design. The exceptions where he finds that volumetric exchange could be an appropriate option include nonresidential development, garages, driveways, and some access ways. It seems that if we approve the Text Amendment's broader expansion of the ability to use the volumetric exchange tool, we're abandoning the flow-through design requirement in order to accommodate additional exceptions when we don't need to do so. In terms of being consistent with the past balancing efforts, adding a convenient tool for property owners was ruled out. There is a strong reason in all areas to not do volumetric exchange, but it was accommodated in certain areas because of the type of flow those areas had. Commissioner Howell said the City would be rewriting the past balancing efforts if it allowed wholesale volumetric exchange in small stream areas. Exempting problem situations is one thing, but wholesale allowing it doesn't seem consistent with the previous balancing process. Planner Potter replied that staff's view was that it was not a wholesale change; staff analyzed maps thoroughly to see where the additional areas of partial protection floodway fringe were located. Most of the center of Dixon Creek and the other small streams in partially protected floodplains are all protected by floodways. There are small smatterings of partial protection floodway fringe areas along those streams, outside the floodways. Were the ability to use volumetric exchange provided to these property owners, there would still be incentives on most of the habitable construction to choose flow-through design (such as reduced flood insurance costs, etc.). Additionally, not all sites would be able to meet the required performance standards for volumetric exchange. Therefore, staff doesn't believe there would be wholesale use of the tool.

Commissioner Howell said that it was his understanding that flood insurance applied community-wide and not to individual properties in terms of what design they chose; Planner Potter replied that community-wide, there is a 10% discount. However, the actual insurance rate for an individual site is determined by whatever flood insurer the property owner one ends up with; the actual flood insurance that one pays is determined by specific circumstances of each site and who is calculating it. Commissioner Howell noted that a person with flow-through design seems no less at risk; it has a community and

neighborhood impact; either way, they're above the flood level. Planner Potter responded that this point was true, but that a flow-through design could accommodate venting, etc. in the crawl space and those types of features improve overall flood protection and that is generally reflected in the ultimate flood insurance rate.

Commissioner Howell said that the Public Works Urban Stream Maintenance Guidelines were the result (around 1993) of a citizens group seeking more protection for streams and seeking to try to rein in Public Works mowing down stream vegetation along Dixon Creek. These internal guidelines have evolved since then. However, they are not a good model unless they become a technical document. He said he was concerned about the Text Amendment's addition of them to the list of allowed/exempt activities (such as in Section 4.5.80.03). He said he would prefer that if there are allowed activities missing that Public Works would like to add, we could consider an addition. One such item could be regarding removal of non-vegetative debris. Commissioner Howell said one thing that is different between the Guidelines and the current Code requirements is that the vegetation removal piece in the Guidelines is more expansive than the one that is already in the exceptions section of the Code's riparian provisions (Section 4.13.50.a); he said he is concerned because he believes that it is appropriate to limit vegetation removal to that vegetation which, if not removed, would cause flooding that would damage structures. However, language in the Guidelines implies that any vegetation can be removed if it would impede stream flow; this gives license to cut down any vegetation in the stream; this is not consistent with what has evolved since the Guidelines were first written. He asked what was missing that staff sought to address as an exception.

Planner Potter replied that there wasn't anything necessarily missing, but it was an attempt to give people an idea of what Public Works does use; the activities covered by the Guidelines are always in the context of the current Code. The original adoption of the Guidelines was in the early 1990's, prior to the Natural Features project. They need to be updated over time; that is why the Guidelines must always be implemented in the context of the current Code requirements, such as those in Chapter 4.13 – Riparian Corridor and Wetland Provisions. The Public Works Department developed both the Stormwater Master Plan and the Salmon Response Plan and was involved in the Natural Features Project, which dovetailed all of these planning efforts into the development of the Code provisions. Adding a reference in the Code to the Guidelines is an attempt to provide the public with a document that is used in the context of other Riparian Corridor requirements. There is nothing that is missing; if the Commission wishes, reference to the Guidelines can be removed.

Engineering Supervisor McConnell added that the real goal of including a Code reference to the Guidelines is to make more people aware that the document exists; typically, staff hears at least annually from citizens expressing concerns that the City is either doing too much stream maintenance or not enough. This Code reference would help the public know that this document exists; even though it is posted on the City's website, not many people seem to be aware of it. He said the reference to the Guidelines could be removed from the Text Amendment if the Commission wishes. Commissioner Howell suggested that the Code reference could be re-phrased to make it clear that the activities in the Guidelines were only allowed to the extent they were consistent with all the natural features provisions of the Code, especially those provisions in Chapter 4.13 – Riparian Corridors and Wetlands provisions. The guidelines work both ways; they help Public Works staff know what they are allowed to do and they help citizens know what the limitations are; frequently citizens ask for

more manicuring along banks (how they imagine the best flood control is done). Having the right language helps Public Works staff defend themselves. He said his main concern was that the activities in the Guidelines be consistent with other parts of the Code. Otherwise, a Council under pressure from a citizens group could make a change to the Guidelines without even considering the Code. As maintenance guidelines, they could do that without even consulting Community Development. He suggested simply inserting language that the Guidelines activities must be consistent with other natural features sections of the Code; Planner Potter suggested adding such catch-all cross references in each of several areas that mention the Guidelines.

Commissioner Hann said that if there was confusion over structures versus fences, he suggested putting Fences and Walls in the definitions section; Planner Potter addressed the difficulties with pursuing that course of action. She said there is already a definition of Accessory Structure in Chapter 1.6 - Definitions. However, sometimes fences and walls are meant to be called accessory structures (such as in the context of Chapter 4.3 – Accessory Development) and striking fences and walls from the definition of accessory structure would require changing other Code chapters to insert “fences or walls” in all areas where the term “accessory structures” is used and intended to include fences and walls; such an analysis of the entire Code’s use of the term “accessory structures” would take quite an effort and cannot be accommodated as part of this Text Amendment. Planning Division Manager Young added that a definition of “structure” would have a huge ripple effect in the Code as well. Deputy City Attorney David Coulombe added that in construing the text of the Code, the specific definition will prevail over the general definition of structure. In a particular chapter, that definition will vary according to context. Changing a general definition for a minor issue creates an overall problem.

Commissioner Howell said that his issue he raised regarding Section 4.5.110.07.b and the term “accessory buildings and structures less than 200 square feet” would be resolved; staff seemed to be suggesting adding a parenthetical phrase something like, “this provision does not pertain to fences and walls, which are covered by Section 4.5.110.12.” Planning Division Manager Young agreed that was correct.

Commissioner Hann moved to recommend to the City Council approval of the LDC Text Amendment LDT10-00001, as presented in the January 21, 2011, staff report, as well as Commission findings and support; and, if agreeable, he asked for incorporation of the additional staff recommendations in Section III of the February 15, 2011, supplemental staff memo from Senior Planner Kelly Potter to the Commission; motion seconded by Commissioner Howell.

Commissioner Howell asked whether staff was amenable to the changes discussed to Table 4.5 – 1 in Section 4.5.110.12; the clarification to the lead-in paragraph in Section 2.11.40 to add the cross-reference to Chapter 4.13; and the clarification in Chapter 4.5 where the Urban Stream Maintenance Guidelines had been inserted so that it was clear that the activities in the Guidelines were allowed only to the extent they were consistent with the Code’s natural features provisions; he asked how best to address those issues. Planner Potter suggested the Commission give general direction on some of them and that would be sufficient. She said if we got into very substantive, complex matters, precise Code language would need to be developed by staff and reviewed by the Commission. However, these changes mentioned by Commissioner Howell are fairly simple and general Commission guidance for those matters would be fine.

Planner Potter summarized the Commission changes to the Text Amendment thus far as including:

- The staff-recommended changes that Commissioner Hann included in his motion; those in Section III of the February 15, 2011, supplemental staff memo to the Planning Commission.
- The correction of the typographical error that Chair Gervais had raised in Section 4.5.110.12.a.2 (page A-370); the last paragraph of that section has a reference to Section 2.11.40.b.2 and that section does not exist. The cross reference needs to be changed to cite Section 4.5.110.12.b.
- The insertion of text into the lead-in paragraph of Section 2.11.40 (page A-192); the second line would be amended to include a cross-reference to Chapter 4.13 - Riparian Corridor and Wetland Provisions and any other appropriate Natural Features Code provisions.
- The insertion of text into all the areas where the Urban Stream Maintenance Guidelines are mentioned (such as the one in Section 4.5.90.01.i on page A-356), so that it is understood that maintenance conducted according to these guidelines must also be done consistent with and in the context of the provisions in Chapter 4.13 - Riparian Corridor and Wetland Provisions and other applicable Natural Features Code provisions.
- The insertion of a parenthetical phrase into Section 4.5.110.07.b (page A-367) to state that fences and walls are not governed by this Section, but are governed by the standards in Section 4.5.110.12.
- The modification of text in Table 4.5-1 Fencing and Wall Parameters for Fences and Walls that Require a Floodplain Development Permit (page A-371) to change the Floodway fencing text in the row for fencing types C & D and in the row for fencing types E & F. Delete the currently proposed text and replace it with the same text that is used for Floodway fencing in the row for fencing type B.

Commissioner Howell moved to amend the main motion to incorporate direction to staff to develop language in the areas just cited; Commissioner Hann seconded; motion **passed** unanimously.

Commissioner Howell said he had a problem with the extent to which volumetric exchange was being expanded, but he believed there was a good case to do it in the small stream sections for nonresidential development, for garages and driveways, and with some definition of access ways and other entrances, but not to introduce it for habitable areas. Community-wide, it is not a huge number of properties, but it has an impact on a stream course length. Many of the homes along streams such as Dixon Creek are the properties that have had problems during flood events and where development patterns easily create additional problems for neighboring properties. Also, these are the properties for which it is difficult to do volumetric exchange effectively; it is not a big burden for those people (apart from the highlighted exemptions) to do flow-through design. Commissioner Howell said that he is not convinced that people would be persuaded by the benefits of flow-through design just because of their insurance rate; a developer of an infill property may not care about

ongoing costs of flood insurance and will simply use the easiest design. He is concerned with losing a tool to solve problems with areas that were inappropriately developed.

Chair Gervais said she isn't convinced that the problem is as big as Commissioner Howell portrays it. She asked whether the Commission wanted more time to consider it. Commissioner Hann asked staff to give an example of how volumetric exchange could be used versus flow-through design.

Planner Potter gave a theoretical example of a house on a cul-de-sac that backs up to Dixon Creek; the lot is very flat until the very back of the lot, where it then steeply slopes into Dixon Creek. The scenario is that the homeowner wants to add a bedroom in the back yard and the existing grade of that part of the lot is only six inches shy of the finished floor elevation that is required by Code. The Code-required finished floor elevation needs to be one foot above base flood elevation. Therefore, the homeowner only needs to construct the finished floor six inches above the existing grade of the lot. Six inches is not enough height for a crawlspace, so to get adequate crawlspace for flow-through design, the finished floor of the new bedroom would be significantly higher than the Code-required one foot above base flood elevation. The bedroom would end up being substantially higher than the main house. However, there is not a need to do that if the property owner can use volumetric exchange and balance cut and fill by slightly re-grading the back yard and bringing over six inches of fill to the part of the backyard where the new bedroom is planned. Volumetric exchange would allow the finished floor elevation of the new bedroom to be more in line with the existing house and also meet the Code-required one foot above base flood elevation. Commissioner Hann asked what the height increase between the existing house and the new bedroom would be if the homeowner opted for flow-through design rather than a slab-on-grade approach; after conferring with Floodplain Manager Franklin, Planner Potter replied that it depended on the precise grade change, but would likely be a couple steps from the main house up into the new bedroom.

Commissioner Hann asked what protections the adjoining neighbors had against suffering from the six inches of fill; Planner Potter replied that you'd need to ensure (as one does with all new construction) that the drainage was designed to go to the street and not onto the neighbors' properties. You want to maintain existing drainage patterns; a drainpipe may need to be added to redirect rain coming off the new addition. Commissioner Hann asked if this scenario only applied to residential development; Planner Potter replied that it applied to partial protection floodway fringe areas, regardless of the zone. However, the additional partial protection floodway fringe areas only include a small number of commercial properties, such as those on 9th Street between Conifer and Elks. Commissioner Hann asked if a church wanting to expand could use volumetric exchange; Planner Potter replied it could, as the Text Amendment is currently proposed, if all the volumetric exchange performance standards were met.

Planning Division Manager Young added that, in terms of neighbor impacts, the volumetric exchange performance standards require no rise in base flood elevation; it is a bathtub model, in that you're adding volume into a different part of the flood plain, but also taking a compensating amount out, so there shouldn't be a rise in the base flood elevation. He said the drainage concerns that Commissioner Hann and Planner Potter described have more to do with the issues that would arise from floodwater flow.

Commissioner Howell asked about a theoretical house on a foundation in the floodplain, on flat land along Dixon Creek, but across the street from the theoretical house that Planner Potter described. Given that this second theoretical house currently displaces water during a flood, he asked how that property owner could redevelop his/her property in the future with a non-flow-through foundation, which would be considered fill. Planner Potter replied that the property owner could only use such a non-flow-through design if they used the volumetric exchange tool and he/she could only use the volumetric exchange tool if all the volumetric exchange performance standards could be met. One of those performance standards prohibits ponding, so that property owner could not simply dig a hole and place fill from the hole under the new structure.

Commissioner Howell asked Planner Potter what would happen to the house example she cited when it came time for it to get rebuilt in the future; he said that since that property owner could build the whole new residence with flow-through design, there was no need to use volumetric exchange to resolve a problem such as that created when a homeowner is only adding an addition to a home and is trying to get the finished floor elevation of the addition to match or be close to the finished floor elevation of the existing home. The proposed standards to allow volumetric exchange in all partial protection floodway fringe areas wouldn't directly promote flow-through design in the case of a complete redevelopment that resulted in a new home. If the property owner was going to live in it, he/she might think about the rate of flood insurance, but he didn't believe that the flood insurance rate incentive was enough to ensure flow-through design. There are distinctions between new construction and substantial improvements. In terms of residential development, he believes that it is enough to allow volumetric exchange for modifications up to but not including substantial improvements (which are much bigger than adding a single bedroom).

Planner Potter replied that this suggestion is one approach and that the Commission could give staff such direction on this issue. Commissioner Howell suggested only intruding as much into the previous balancing process as needed (with new residential construction) in order to solve problems. Floodplain Manager Franklin said she handles floodplain development for the Development Services Division; she comes across concerns with the current Land Development Code restrictions on volumetric exchange and provided Text Amendment input from a permitting standpoint to Planner Potter.

In discussing volumetric exchange as a tool, Floodplain Manager Franklin gave the real life example of a small lot on a street across from the Market of Choice. The property owner recently submitted building permits to construct a new home in place of a demolished single family home. The base flood elevation for this lot is one inch above grade; you can't do flow-through design, but there is no other option under the current Code because volumetric exchange is limited to partial protection floodway fringe areas in the floodplains of the Willamette and Marys Rivers and the Mill Race. While this lot is in a partial protection floodway fringe area, it is not within the floodplains of the Willamette and Marys Rivers or the Mill Race. The lowest floor that is habitable needs to be one foot above base flood elevation, so that needs to be thirteen inches from grade for this lot. However, the flow-through design only counts between the base flood elevation and the ground (which, in this case, is only one inch), so you can't do flow-through design that meets FEMA requirements and the property owner can't do fill. If the property owner was allowed to use the volumetric exchange tool, he/she could slightly grade at the rear of the long lot to account for that one inch by 1500 square feet (the building footprint) in order to build the new home. There are

areas six inches below base flood elevation where people don't have the capacity on the property to move soil from one area to another to elevate the full six inches and still comply with the Code. Therefore, the performance standards for volumetric exchange would not be able to be used in all cases. It would just be a good solution for this particular lot.

Floodplain Manager Franklin continued by reiterating the volumetric exchange performance standards in the proposed Section 4.5.100.01; it is clear that you are not to create barriers to the flow of floodwater by creating ponding or impacting neighbors with drainage. These requirements are consistent with Oregon drainage law which prohibits you from doing things on your property that cause drainage flow onto your neighbor's property in a manner that exceeds naturally occurring drainage. Oregon drainage law has been taken into account and put into the Code. Someone can't just do volumetric exchange by bringing in a pile of soil and putting a house on top of it; there are many guidelines that prohibit that.

Commissioner Hann highlighted a letter from Izzy's Pizza; if the property is redeveloped, he asked if volumetric exchange was taken away as an option, whether flow-through design is really the only thing that could be done in that situation, tying the hands of people who have significantly invested in a property. Planner Potter replied that it does limit them. If Izzy's, for example, is on a commercially-zoned property, under FEMA and these proposed standards, they do have the option of doing flood proofing. Flow-through design would add to the cost of replacing the building. Commissioner Hann asked how to flood-proof an entrance door to a commercial establishment; Floodplain Manager Franklin replied that she has not seen a commercial development in the floodplain during her three years here. There is a technical bulletin from FEMA regarding doing commercial development in the floodplain and she anticipated that she would learn the standards when the application came in. She expected it would involve using flood proof materials, though she didn't know how to completely waterproof a building against floodwaters, so she anticipated that water would get in the building during a flood event. Flood insurance covers the structure and items inside.

Commissioner Hann said he is not in favor of removing the expanded volumetric exchange provisions that are shown in the proposed Text Amendment; it is a tool that gives some discretion to property owners to address difficult redevelopment issues the property owners contemplate future development. Therefore, he suggests letting the expanded volumetric exchange provisions stand as shown in the proposed Text Amendment. Commissioner Howell said his objection was that the Text Amendment involves taking the exceptional circumstance situations and, in order to solve them, changing the volumetric exchange provisions for all situations and not just the ones that are the exceptional circumstance ones. He said that violates the previous balancing efforts that were done, and he said he would have to vote against this Text Amendment if this aspect of it were not modified.

Chair Gervais asked what process was available for the lot across from the Market of Choice if the City doesn't give the owner the option in the Text Amendment to use either volumetric exchange or a flow-through design; the current Code provisions leave the property owner stuck with a flow-through design option only. She asked what process was available to the property owner. Planner Potter surmised that the property owner might be able to use the Planned Development process which would involve a public hearing to construct the single family home.

Commissioner Howell said he didn't object to expanding the volumetric exchange tool to all partial protection floodway fringe areas for garages or access ways, for people that can't do

flow-through design because they only have “x” number of inches between the base flood elevation and the natural grade of the lot, for nonresidential development, and for residential improvements that do not exceed the federal definition for substantial improvement. He does not support the expansion of the volumetric exchange tool for situations involving a substantial improvement or new construction. He said he objected to expanding volumetric exchange to situations that are not exceptional circumstances; there was a lot of community process essentially saying that, over time, if you are going to build in the floodplain, you are going to have to do it differently. He said he was fine with the exceptions he outlined.

Commissioner Hann expressed support for these ideas, provided they included the specific situation where a property owner could not use a flow-through design to meet the required finished floor elevation of one foot above base flood level criteria, because of the natural grade of the lot.

Planner Potter suggested the Commission consider a list of parameters within which it could consider volumetric exchange on partial protection floodway fringe areas outside the floodplains of the Willamette and Marys Rivers and the Millrace. She suggested that staff could craft general guidelines that outline the Commission’s direction for Text Amendment modifications to the volumetric exchange provisions. She said Section 4.5.100.01 could be modified to create a new “a” and re-letter the existing subsections in Sections 4.5.100.01.a-e, accordingly. The new “a” could then be used to describe the precise circumstances under which volumetric exchange could be used. Those circumstances would include:

- the currently allowed areas that are in the floodway fringe portions of the Willamette and Marys River and Mill Race floodplains; and
- partial protection floodway fringe areas along other local streams, provided one of the following is true:
 - The development is nonresidential construction;
 - The development is residential construction and is less than a substantial improvement;
 - The development is residential construction on a site where natural grade is such that, to achieve a finished floor elevation of one foot above base flood elevation, flow-through design will not result in a crawlspace consistent with FEMA standards,
 - The development is a garage, or
 - The development is a driveway or building access.

Commissioner Howell concurred with the proposal.

Deputy City Attorney Coulombe suggested a motion to amend the main motion in order to adopt these proposed changes. Commissioner Howell moved to replace current limitations on volumetric exchange with the list just generated by staff. Planner Potter reiterated that this clarification would be a new “a” for Section 4.5.100.01 so that it was up front and center. Commissioner Howell asked if the Commission should simply give staff general direction; Planner Potter said staff was comfortable with general direction, but she requested that staff be given a few minutes now to craft text that was a bit more precise for the Commission’s motion. Commissioner Howell asked if staff could craft a motion for general direction. Planner Potter confirmed that she could and the Chair Gervais directed the Commission to take a break for a few minutes to allow staff to work on the guidance language.

Planner Potter crafted language to be used as general Commission direction to staff to modify the Text Amendment provisions regarding volumetric exchange. She directed the Commission to page A-361, Section 4.5.100.01 Volumetric Exchange. She said that in the proposed Text Amendment, the volumetric exchange performance standards are contained in subsection letters "a" through "e." She suggested the Commission would move to modify Section 4.5.100.01 to create a new "a" and re-letter the existing "a" through "e" sections accordingly. The new section "a" shall state that volumetric exchange shall be limited to the following areas: 1) the Floodway Fringe portions of the Willamette River, Mary's River and Millrace Floodplains; and 2), the Floodway Fringe portions of other local streams, provided the area is designated as Partial Protection on the Natural Hazards Map and at least one of the following is true:

- a. The development is nonresidential construction;
- b. The development is residential construction and the development is less than a substantial improvement;
- c. The development is residential construction and on a site where the natural grade is such that, to achieve a finished floor elevation of one foot above base flood elevation, flow-through design will not result in a crawlspace consistent with FEMA standards;
- d. Development involves a garage; or
- e. The development involves a driveway.

Planner Potter asked if the Commission wanted to also include building accesses, such stairs and other access points, listed along with "e," the driveway provision. Commissioner Howell asked if those would be considered less than substantial improvements. Planner Potter said yes and the Commission directed staff to add "building access" to "e." Planner Potter asked Chair Gervais if it was understood that her wording was intended to be general guidance and that staff would need to develop and wordsmith the actual text used to modify the Text Amendment. She said that this was particularly true of "c." Chair Gervais confirmed that the Commission's intent was to give staff direction rather than specific language.

Commissioner Howell moved to incorporate language as proposed by staff, including the addition of "building access" to "e." Commissioner Hann seconded the motion and it **passed** unanimously.

In the main motion, four voted in favor (Commissioners Howell, Feldmann, Hann and Ridlington), with Commissioner Woodside in abstention. Motion **passed**.

III. PLANNING COMMISSION MINUTES:

A. January 5, 2011:

Chair Gervais stated that the second sentence in the second paragraph on page five should read, "Trees could not get to a height where they would adequately screen the site". The third sentence in the fourth paragraph on page six should have the

superfluous word "out" deleted. The first sentence in the third paragraph on page 12 should be modified to read, "...impacts will overshadow land use decisions". Commissioner Hann moved and Commissioner Feldmann seconded to approve the minutes as corrected; motion **passed**.

B. January 19, 2011:

Commissioner Howell moved and Commissioner Feldmann seconded to approve the minutes as presented; motion **passed**.

IV. OLD BUSINESS:

Discussion on when to choose a Liaison to the Housing and Community Development Commission.

V. NEW BUSINESS:

A. Planning Manager's Update

Planning Division Manager Kevin Young highlighted an email today regarding an optional March 16 meeting for members of all boards and commissions regarding state rules for elections for Board and Commission members. Under State law, Commission members are considered public employees for purposes of the campaign; there are certain rules. He said Commissioners had to be careful of what they said regarding advocacy of the levy on the May ballot. There is heightened sensitivity when the campaign starts; Councilor Traber said his understanding is that period starts March 7. Chair Gervais suggested sending out an overview of the information to the many members whose work obligations prevented them from attending; Planning Division Manager Young agreed to do so.

Planning Division Manager Young related that Commissioner Reese had had to resign, citing work conflicts; this will create quorum issues. Commissioner Woodside related that her baby's due date is June 6; she plans to remain on the Commission.

Planning Division Manager Young related that the Budget Commission met last week and its general direction to the City Manager was to prepare a balanced budget, without specifying particular budget items for elimination or inclusion. The Planning Division interprets that as good news. The previously seen package prepared by the City Manager assumes the department will be reduced at least to the extent of Package 1. It is a given that with Package 1 there will be cuts, and there may be further cuts, depending on projected budget shortfalls or other factors.

Planner Division Manager Young noted that City staff were saddened by the announcement of the City Manager's decision to retire; he will be missed. Effective date is June 30.

Commissioner Hann asked if Friends of Witham Oaks were successful in purchasing the Witham Oaks project site, with its approved development plan, and if they did any development at all, would they be required to put the road through. Planning Division Manager Young said that with the approvals in place for the site (a subdivision and a

planned development), the way they are structured is that with Phase I development, the entirety of the Circle Boulevard extension would need to be constructed. Commissioner Hann asked if the group was aware of that; Planning Division Manager Young replied that it was his belief that the group had no plans to go forward with development of any approvals.

Planning Division Manager Young said that with no progress, those approvals would lapse this summer and the land will end up with a Planned Development overlay on it. If the owner wanted to move forward with anything that would be considered development, planned development approval would be required. No one is willing to say with certainty whether the Circle Boulevard extension would be required in conjunction with whatever that development would be. Councilor Traber asked what would be considered development; Planning Division Manager Young replied that it would be a very low threshold; it could be as little as a garden shed.

VI. ADJOURNMENT: The meeting was adjourned at 9:20 p.m.

MEMORANDUM

To: City Council Members
From: Julie Jones Manning, Mayor 
Date: March 28, 2011
Subject: Confirmation of Appointments to Boards, Commissions, and Committees

As you know, at our last regular meeting I appointed the following persons to boards, commissions, and committees with the terms of office stated below:

Citizens Advisory Commission on Civic Beautification and Urban Forestry

Tim Brewer
Term expires: June 30, 2013

Community Police Review Board

John Landforce
Term expires: June 30, 2012

Downtown Commission

Heidi Henry
Term expires: June 30, 2013

I ask that you confirm these appointments at our next Council meeting, April 4, 2011.

MEMORANDUM

To: City Council Members

From: Julie Jones Manning, Mayor



Date: March 28, 2011

Subject: Vacancy on Bicycle and Pedestrian Advisory Commission

Roselyn Toy has resigned from the Bicycle and Pedestrian Advisory Commission. Roselyn's term on the Commission expires June 30, 2011.

I would appreciate your nominations of citizens to fill this vacancy.

MEMORANDUM

To: City Council Members
From: Julie Jones Manning, Mayor 
Date: March 28, 2011
Subject: Appointment to Community Police Review Board

I am appointing the following person to the Community Police Review Board for the term of office shown:

Benjamin Calhoun
Term expires: June 30, 2012

Benjamin has lived in Corvallis for several years and would like to become involved in local governance.

I will ask for confirmation of this appointment at our next Council meeting, April 18, 2011.

MEMORANDUM

To: Mayor and City Council

From: Tony Krieg, Customer Services Manager *ck*

Subject: Liquor License Investigation- Jack Okole's

Date March 23, 2011

The City has received an application from Jeb Dunlap and Justus Seely, Owners of Nails like Justus dba Jack Okole's located at 140 NW 3rd Street, Corvallis, OR 97330. This application is for a New Outlet for a Full On-Premises Sales 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.

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: Ken Gibb, Community Development Director 

Date: March 31, 2011

Subject: Staff Response to Council Questions from the March 21, 2011,
Brooklane Heights Public Hearing

During the March 21, 2011, public hearing on the Brooklane Heights Conceptual and Detailed Development Plan, and Tentative Subdivision Plat (PLD06-00018, SUB06-00006), the written record was held open for seven days to provide additional time for the public to submit testimony. Deliberations on the subject application were scheduled to occur during the noon meeting on April 4, 2011. Because the Council did not deliberate on the same evening as the public hearing, the Council asked staff to prepare responses to preliminary Council questions to be considered during the April 4, 2011, deliberations.

Questions asked by Councilors during the public hearing, or via email following the close of the public hearing, are presented below, followed by staff responses. The responses are purposely brief, and at Council's request staff is prepared to elaborate on these responses during deliberations.

Councilor Beilstein

Mass grading could occur before individual lot grading. Will there be protection from erosion if development of the site does not continue beyond the mass grading?

Yes. The grading activities will require the applicants to obtain erosion control permits. The permits will require preventative measures such as silt fences, mulching, and/or sediment barriers on drainage structures. The developers will also be required to re-establish vegetation on disturbed soils. Erosion control measures will be required in relation to any grading on the site, including mass grading and individual lot grading.

Is there a failure in the storm plan regarding Brooklane Park Estates with drainage from the undeveloped Brooklane Heights property? What impact will Brooklane Heights have on Brooklane Parks Estates, more water, less water?

Knowing that the proposed Brooklane Heights development is largely in an undeveloped state, the drainage coming off of the land represents the natural drainage patterns. Staff are aware that when Brooklane Park Estates was developed there were problems associated with the drainage coming off of the Brooklane Heights property. Brooklane Park Estates developers did not account for the drainage off of the hillside above them. It is staff's understanding that additional grading/ditching was done on the north side of the

access road behind Brooklane Park Estates to address the drainage from the hillside and this has, for the most part, addressed the issues.

The development of Brooklane Heights will intercept a portion of the stormwater from the subject site and direct it into engineered drainage facilities. Those facilities will direct the water into existing public storm drainage pipes located within Brooklane Park Estates. The surface water coming off the hillside into Brooklane Park Estates should be lessened.

The development of the Brooklane Heights site is unlikely to adversely impact the native stands of trees through changes in stormwater patterns. Looking at neighboring developments such as Fairhaven Heights and County Club Heights where streets and lots were developed not just around stands of Oregon White Oaks, but within them, the trees appear to be healthy. Further from the site, but developed similarly to Brooklane Heights with curbed streets and piped drainage systems, the Witham Hill area has developed within stands of Oregon White Oaks and those trees also appear to be healthy.

Did staff consider the optimal location of the detention facilities? Did the large Oak play into the decision?

Staff extensively reviewed the applicant's plans for locations of the storm drainage facilities. Detention and water quality facilities need to be located down stream of development in order to mitigate the impacts associated with the development. The Central detention vault and associated water quality facility and piping have a limited area that it can be located within because they need to be down slope and down stream of the development, and above the public storm drain inlet provided by Brooklane Park Estates. Considerations for slopes, grading, access to the vault, setbacks, compatibility, and impacts to trees were considered in locating the proposed facilities.

When evaluating the applicant's proposal, all of the affected significant trees were considered, including the 48" Oak. It should be noted that according to previously submitted tree inventories, there are other 48" Oak trees present on the site.

The proposed location of the central detention vault in Tract B places it between two lots. Those two lots are higher in elevation than the proposed vault due to the natural topography. If the proposed vault were to move down slope, the two lots would appear higher than what is proposed. With the vault acting as "fill", the height difference is lessened. Also, with the vault in the proposed location, the fill slope against the vault will line up with the fill slope for the lot to the east. If the vault were moved down slope, it would visually protrude more from the topography.

Councilor O'Brien

Is the Council required to consider the stormwater plan in concert with the individual lot grading plans?

The applicant is required to comply with Conditions of Approval 20 and 27. Condition of Approval 27, states:

Lot Grading and Structures -Mass grading shall be limited to the areas shown on the grading plan identified as Drawing X – Brooklane Heights Grading and Tree Preservation Plan, and Drawing Y – Brooklane Heights Cut/Fill Analysis (Exhibits D.1, 2). Cuts and fills in the areas permitted to be mass graded shall not exceed the measurements shown in Drawing Y. All mass graded areas, as shown in Drawing Y shall be engineered and constructed such that retaining walls are neither required nor used.

Prior to grading and excavation activities in areas not approved for mass grading, as shown in Drawing Y (Exhibit D.2), the applicant shall obtain approval by the City Council through a public hearing review process, detailing how the grading plan(s) for development on individual lots are consistent with Comprehensive Plan Policy 4.6.7.

In Staff's view, this condition does not require lot grading plans to be submitted at the same time as stormwater plans. It does require areas not previously approved to be graded to be evaluated through a public hearing process to determine consistency with Comprehensive Plan policy 4.6.7. To install the proposed stormwater facilities, it is necessary to grade in areas outside of what was previously approved. Consequently, the applicant provided detailed grading plans (using 1-ft contours) associated with the installation of the stormwater facilities. This grading plan was evaluated by Staff and the City Council through a public hearing process. Staff believe the grading plan is consistent with Comprehensive Plan policy 4.6.7 and meets the requirements of Condition of Approval 27.

Plans for residential subdivision applications are evaluated to determine if the existing or proposed public stormwater system can accommodate stormwater generated from proposed lots. The Brooklane Heights applicant has designed their stormwater system accordingly, based on conservative estimates of the volume of stormwater that would be directed into the public system from impervious surface areas on all proposed lots. Therefore, the stormwater impacts resulting from individual lot development and grading have been accommodated by the proposed stormwater system. In addition to this review, when individual lots are developed, stormwater will be required to be managed to City standards through the Building Permit process. In summary, the proposed stormwater system has been designed to accommodate the total volume of stormwater generated on the site, including lots, and when each lot is developed it will be required to meet stormwater management standards of the Building Code.

What is the affect of individual lot grading on the drainage plan?

The proposed drainage plan takes the mass graded and future individual lot grading into consideration. Individual lot grading should not have an adverse impact on the site's drainage plan. It is the City's policy that when individual lots develop they provide drainage from the site to a weep hole in the curb. Storm drainage would then be directed into the engineered storm drainage system. Individual lot grading will typically be done to provide a flat(er) lot for development. The nature of a flat lot will aid in the ability to drain the lot to the weep holes in the curbs. For most of the lots located below the roads, dedicated storm drainage pipes are proposed on the low sides of the lots to drain into, making a direct connection to the engineered drainage system. Pipes have been "sized" to allow of this stormwater to flow from all lots within the development.

Public testimony asserts that the stormwater proposal is not sufficient since the exact location of water pipes on lots has not been shown, and placement of 12 inch pipes on the back of lots will affect stormwater plans. Please respond to this concern.

The location of all proposed pipes has been shown in the stormwater plan, including information about pipe sizes. Where required due to the site's topography, private pipes located at the backs of lots are proposed and shown. Those pipes will be used for private lot drainage, such as roof down spouts. Typically, water from impervious surfaces on individual lots is collected and piped to weep holes in the curbs. In many cases, lots on the downhill side of streets can not drain to the street. Those lots, in this proposal, will require an individual connection to the proposed pipes located at the back of the lots and the connection will be reviewed with the Building Permits. Calculations used in developing the proposed stormwater plan accounted for water from the entire site, including lots. The information provided by the applicant demonstrates that the proposed stormwater plan complies with applicable standards in Appendix F of the Stormwater Master Plan, as required by Condition of Approval 20.

Are some Significant Trees as defined by the LDC more significant than other Significant Trees?

Under the 1993 Land Development Code, which is the applicable Code for this application, trees with trunk diameters of 8 inches or greater are considered Significant. The Code does not define any degree of significance beyond that. The site contains approximately 454 Significant Trees. Under the current proposal approximately 385, or 85% of Significant Trees will be preserved. Of the Significant trees to be preserved at least 3 are greater than 40 inches in diameter, including two trees that are 48 inches in diameter; approximately 13 trees are between 30 - 39 inches in diameter; and, approximately 44 trees are between 20 - 29 inches in diameter. The remaining Significant trees have trunk diameters of between 8 - 19 inches. Most Significant trees will be in Tracts that will not be developed except for required stormwater facilities. These open space tracts contain tree groves and account for approximately 42% of the total project site.

Several pieces of addition written testimony were submitted after the close of the public hearing. Please respond to issues raised in testimony.

Staff will thoroughly review written testimony and will be prepared to respond to Council questions regarding the context and relevancy of this testimony, as appropriate.

Councilor Raymond

Explain the proposed storm water system. Did Parks have a recommendation for drainage to the wetlands? What is the effect of the proposed storm drainage to the wetlands?

Proposed streets within the development will intercept a portion of the existing stormwater flows on the surface of the site. Along with the streets, roofs and driveways will also collect stormwater. The stormwater will be directed to gutters along the streets to catch basins and the engineered storm drainage system. There are three basins on the site, an east, central, and west, each with its own stormwater system. The engineered system, through pipes and open channels, will direct stormwater to the three detention vaults and StormFilter vaults before being directed to the existing stormwater system on Brooklane Drive and through Brooklane Park Estates. The existing system directs stormwater into the Marys River Natural Area wetlands.

Parks and Recreation staff have been involved in the review and discussion of the applications from the beginning. Knowing that the development will be required to meet City standards for detention and water quality, they have not expressed any concerns.

The development should have no effect on the storm drainage to the wetlands. City standards require that stormwater flow rates will be released from the site at pre-developed conditions for the 2 year through 10 year storm events. The applicant's design exceeds the City's standards. Water quality to the wetlands should not be affected with the implementation of the City's water quality standards. The applicants have chosen a facility that exceeds the City's standard of 70% removal of Total Suspended Solids.

Councilor Hervey

What sort of maintenance and long term costs are involved with the proposed facilities?

The detention vaults will be constructed out of reinforced concrete. The industry typically expects an 80 to 100 year life from these types of structures. Structure maintenance may include grouting or patching of cracks and spalls in the concrete. Routine maintenance (once every several years) will involve the removal of accumulated sediment from the bottom of the vault. This work will typically be done with a vactor truck by City crews. This type of work is already being performed by City crews and existing equipment on catch

basins, manholes, and existing underground detention tanks. Costs should be comparable to maintenance of detention ponds that would require sediment removal with an excavator and the need to reestablish vegetation.

The StormFilter vaults are also constructed out of reinforced concrete and should have a design life similar to the above. The manufacturer recommends yearly inspections and maintenance every 2 to 3 years. The City crews and existing equipment will likely be performing the maintenance on these facilities. Per the manufacturer, replacement cartridges cost \$65 each. Besides replacing the cartridges, the units will be cleaned out with a vacuum truck, just like a catch basin would be cleaned out with the same equipment. The manufacturer also stated that if the City was to contract out the entire maintenance operation, it would cost less than \$275 per cartridge at each occurrence that maintenance is performed.

What is the life of the filters and how much do they cost to replace?

Per the above and per the manufacturer, filter cartridges typically last 2 to 3 years and cost \$65 each. This project has a total of 10 filter cartridges proposed. If a private contractor performed the required maintenance it would cost approximately \$2750 every two to three years to replace cartridges and clean the units (10 cartridges x \$275). Funding to maintain public stormwater facilities comes from stormwater utility fees.

Could staff clarify the warranty bond?

The warranty bond required on stormwater facilities is for 2 years after acceptance of the facility by the City. This warranty bond goes hand in hand with a Stormwater Facilities Agreement. The agreement states that the developer shall be responsible for the warranty and maintenance of the facility for 2 years. At the end of the 2 year warranty period, City staff conduct an inspection of the facility, noting any deficiency in the structure or maintenance needs. If any deficiencies are found, the developer is notified. Once maintenance or repairs have been performed to the satisfaction of the City, the facilities are removed from warranty and the bonds are released to the developer. At this point the City takes full ownership of the facility, including maintenance and repair.

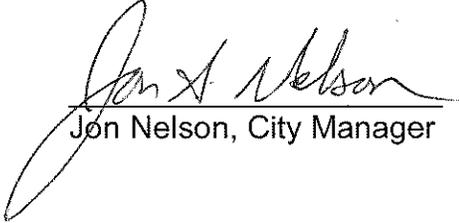
Councilor Hogg

Condition 20 (from Order #2010-0007) talks about infiltration facilities being a recommended means of meeting water quality requirements, however it also talks about not infiltrating on slopes of more than 10%. The site is generally more than 10%. How does this condition apply to this site?

The City's Land Development Code requires that detention facilities maximize infiltration. Because of this, most conditions of approval regarding detention facilities include a statement about infiltrating stormwater. However, the City's Stormwater Master Plan,

Appendix F states that infiltration shall not be allowed in areas with slopes over 10%. In the case of this application, the geotechnical report specifically recommends against infiltration and recommends lining open facilities. Because it is a goal of the City to promote infiltration of stormwater, conditions of approval often contain language about infiltration, even though in this case it is not feasible.

Review and Concur



Jon Nelson, City Manager

Memorandum

To: Mayor and City Council

From: Bob Richardson, Associate Planner

Date: March 29, 2011

Subject: Written testimony regarding Brookline Heights Conceptual and Detailed Development Plan, and Tentative Subdivision Plat (PLD06-00018, SUB06-00006)

Enclosed is testimony received after the public hearing was closed on March 21, 2011, and before 5:00 PM on March 28, 2011.



[\[Date Prev\]](#)[\[Date Next\]](#)[\[Thread Prev\]](#)[\[Thread Next\]](#)[\[Date Index\]](#)[\[Thread Index\]](#)

<web>Brooklane Heights

- *To:* mayor@xxxxxxxxxxxxxxxxxxxxxxxxxxxxx
- *Subject:* <web>Brooklane Heights
- *From:* steve.schaberg@xxxxxxxxxxxxx
- *Date:* Mon, 28 Mar 2011 12:22:23 -0700
- *Reply-to:* <steve.schaberg@xxxxxxxxxxxxx>

This is an inquiry e-mail via Contact Us form:
 Steve Schaberg
 steve.schaberg@xxxxxxxxxxxxx
 prefer phone contact: no

March 28, 2011

Corvallis City Council Members:

Re: Brookline Heights

I am the owner of the proposed 26-acre Brooklane Heights Property. My wife and own a home which is located directly to the north of the proposed property and have lived there for the past 28 years.

Over the years there have been two previous proposals for developing the 26 acres that you are considering for approval. The first was a 101-lot subdivision in 1979 named Secret Gardens. It never found its way completely through the City approval process, I assume because of the sharp downturn in the economy shortly thereafter; perhaps I am wrong.

The second development proposal was named Oakmount and did win City approval in early 1998. It presented a 69-lot subdivision, which was 42 lots less than the first. Before the project could begin, one of the two partners in the development became seriously ill which caused the project to stall. When I learned that the other partner did not want to proceed, I offered to purchase the land and did so in late 1998. My intent was to some day offer a development that would blend well within the neighborhood. I spent quite a bit of money clearing Scotch Broom and other invasive shrubs from the property and kept more than half of it mowed for several years for the benefit of the neighbors, including me.

I feel the present proposal, Brooklane Heights Subdivision, does fit into the surroundings well. It proposes 45 lots, which is less than half of the lots in the 1979 proposal, and 24 lots less than 1998 proposal. It also offers 42% open space and preserves nearly all of the significant Oak tree groves. Neither of the previous development proposals did either. It also includes 11 lots dedicated to comply with the diversity in housing affordability requirement of the Corvallis Comprehensive Plan.

Regarding the storm water plan that we presented last Monday evening, I don't feel that we could have designed it any better. We have worked very closely with the Development Department to make sure we have a responsible plan that complies with the City Code. I trust that you will agree.

Our family moved to Corvallis in 1978 because it was an attractive place to live. I started my business that year and it succeeded because of my surroundings, and because of the good employees from the community that helped it to prosper. I think that it is important to continue the growth of our community so that future generations will be attracted to our City and share the experience that I and many others have enjoyed.

Sincerely,

Steve Schaberg

-
- **Follow-Ups:**
 - **Re: <web>Brooklane Heights**
 - *From:* mayor
 - Prev by Date: **RE: <web>Invitation to Special Event for ABC House**
 - Next by Date: **Re: Brooklane Heights Deliberations**
 - Previous by thread: **Re: Brooklane Heights Deliberations**
 - Next by thread: **Re: <web>Brooklane Heights**
 - Index(es):
 - **Date**
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March 25, 2011

To: Corvallis Mayor and City Council

RE: **Brooklane Heights Subdivision (PLD06-00018, SUB06-00006, LUBA 2009-042)**

Four years ago the 26-acre Brooklane Heights subdivision application was unanimously denied by the Corvallis Planning Commission, a ruling subsequently overturned on appeal by City Council, against City Development Services staff recommendation. Three LUBA appeals later, the applicant still has not submitted a required detailed grading plan for lots not being mass-graded, and a complete stormwater design showing locations of proposed 12-inch diameter drainage pipes on these lots.

Last Monday, a fourth hearing was held on this project, with deliberations to occur April 4th. Once again the applicant is asking Council to approve a piece of the plan, without providing all required documents so Council could make a prudent, informed decision.

Over 95% of Willamette Valley upland prairie and oak habitat has been lost. Inventories of this upland prairie oak woodland site have deemed it a significant hillside with significant tree groves, significant wildlife habitat, Kalapuya archaeological resources, natural hazards on steep 12 – 35% slopes, draining to Marys River Natural Area, a significant wetland actively being restored. Cuts/fills up to 20 feet are proposed, well beyond the 8 foot norm. Council added 28 Conditions of Approval to their previous approval because the heavy-handed development methods don't meet existing codes.

Now the developer wants to change plans to build massive covered stormwater detention vaults where natural springs, pond and stream are located, instead of previously approved open ponds, install underground stormwater pipes instead of natural drainage swales, and cut down another 15 trees, including a magnificent 48-inch diameter Oregon oak. These changes will dramatically affect the slope hydrology, and will remove the surface water upon which many species of wildlife depend.

This is not smart, sustainable, resource-sensitive, or site-appropriate development. It does not comply with mandatory review criteria identified by staff and LUBA (Corvallis Comprehensive Plan 4.11.12 and 4.6.7). The additional tree removal is a clear violation of Council's Condition of Approval 5 (tree preservation and protection). This should allow Council to rescind their previous approval and require the applicant to submit a plan that complies with current codes, rather than approving one more noncompliant piece of this ill-advised development plan under an outdated code.

At a minimum, we urge Council to postpone any further approvals until the applicant provides detailed lot grading plans, and Council members actually visit the site to better understand the impacts of their pending vote. Then you can fairly assess whether there is any overarching benefit to the community that warrants approving these numerous variances from the code, ignoring your previously imposed Condition of Approval as well as the development constraints for this property shown on the attached 1999 Corvallis Comprehensive Plan Urban Growth Boundary Advisory Constraints Map. (Brooklane Heights is the southeast quadrant of the southernmost significant hill – the steepest part.)

Sincerely,

Arthur and Barbara Boucot
Lance and Sheryl Caddy
Laurie Childers
Marilyn and Will Koenitzer
Susan and Jeff Morr e
John Selker
George Taylor
Carolyn Ver Linden
Elizabeth Waldron
Jim and Pat Wohlwend

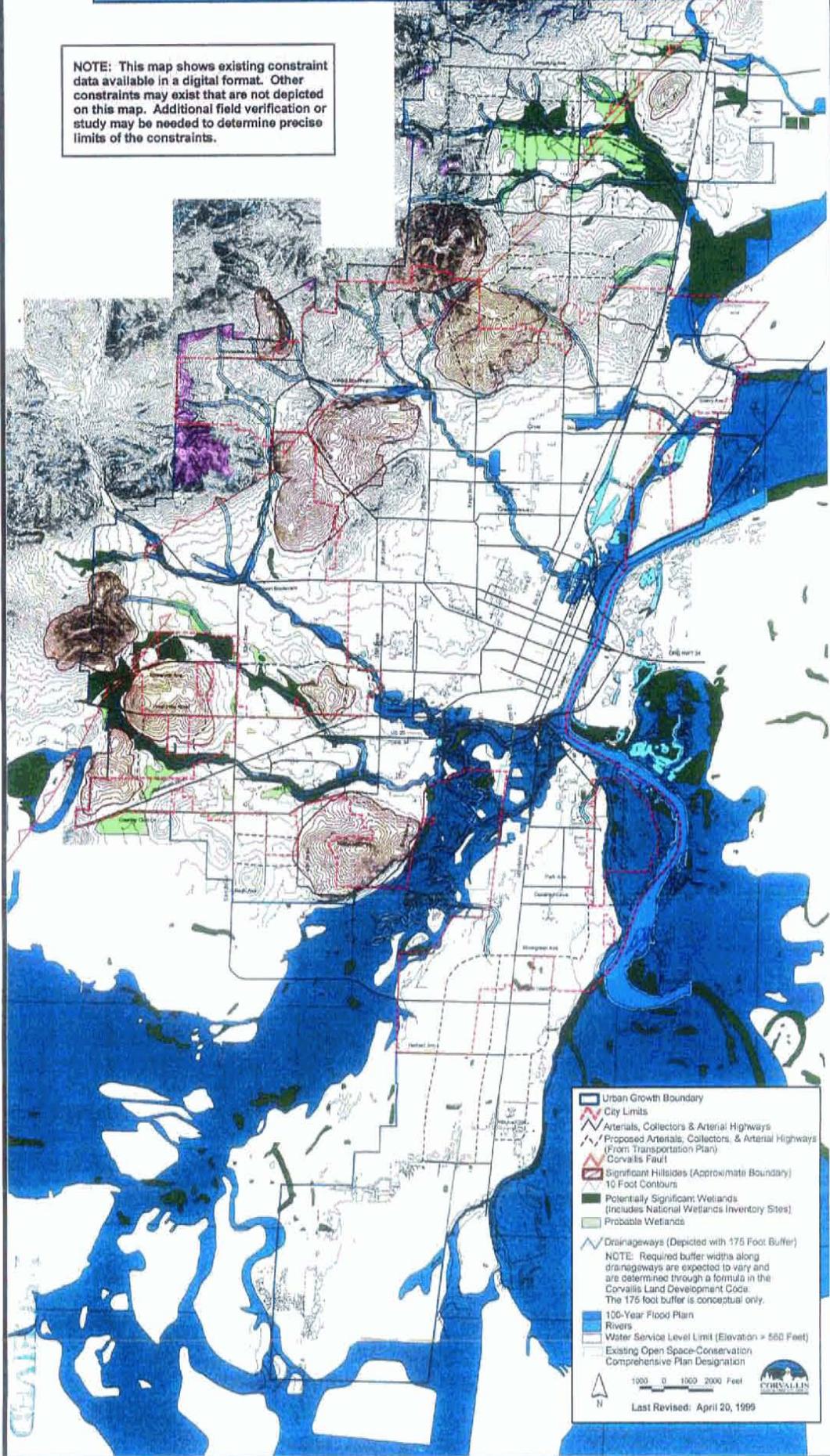
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MAR 28 2011

Community Development
Planning Division

CORVALLIS URBAN GROWTH BOUNDARY ADVISORY CONSTRAINTS MAP

NOTE: This map shows existing constraint data available in a digital format. Other constraints may exist that are not depicted on this map. Additional field verification or study may be needed to determine precise limits of the constraints.



- Urban Growth Boundary
- City Limits
- Arterials, Collectors & Arterial Highways
- Proposed Arterials, Collectors, & Arterial Highways (From Transportation Plan)
- Corvallis Fault
- Significant Hillside (Approximate Boundary)
- 10 Foot Contours
- Potentially Significant Wetlands (Includes National Wetlands Inventory Sites)
- Probable Wetlands
- Drainageways (Depicted with 175 Foot Buffer)

NOTE: Required buffer widths along drainageways are expected to vary and are determined through a formula in the Corvallis Land Development Code. The 175 foot buffer is conceptual only.

- 100-Year Flood Plain
- Rivers
- Water Service Level Limit (Elevation > 560 Feet)
- Existing Open Space-Conservation Comprehensive Plan Designation

1000 0 1000 2000 Feet

Last Revised: April 20, 1999

MAR 28 2011

City of Corvallis
Planning Department

Richardson, Robert

From: tweet37@juno.com
Sent: Monday, March 28, 2011 10:43 AM
To: Richardson, Robert
Subject: Comment Brooklane Hts. March 28.

Mayor and City Council
 March 28, 2011
 Brooklane Heights (PLD06-00018, SUB06-00006)
 Storm Water Design

March 28, 2011

Dear Mayor and City Council,

I was not able to attend the March 21 hearing but have reviewed the video record. I submitted testimony to the record March 21 and did not hear a list of people who had comments submitted digitally, read into the record.

Did I miss this?

Looking at the staff report grading will occur in the middle drainage to support gabon mattress erosion control and drainage from natural flow or, will this native low drainage area, to be graded and lined to be forced to be an easement for subdivision run off focused to flow into this draw to flow into the vault from this natural draw?

Slope I recall for this new constructed drainage way, easement grade is 3:1 and the width of the new drainage will be increase by I recall 24 feet, each, in a triangle grade.

So, sediment from sandstone and basalt could erode out from this new deep and wide triangular excavation area and possibly reach the filter system in the large tank if the gabon mattress fill up with sediment. How long will it take to block up the filters if sediment from this drainage is constantly moving down this drainage and into the tank filters? I asked about cost of the filters as did Councilor Beilstein. Who pays and how often will these filters need replaced, washed out, cared for?

Will the vault fill and vault become unstable in the event of an earthquake and allow the vault to move down slope, or put that much water down slope if the vault comes apart during an earthquake? This area is directly within a large landslide prone area as per the slope analysis and landslide risk graphic in the old staff report.

The reason for this hill slope possibly is uplift along a fault in the valley floor, possibly associate with Corvallis Fault geology.

If the large vault's filters trap sediment the water coming into them and may leave the vault containing all sorts of pollutants which will continuously, be washing downhill from water from back yards, streets, sidewalks and will be deposited unbiofiltered, biodegraded wastes rapidly and directly to Mary's River Open Space Park (MROP) manmade drainage ditch which flows north and east to the Mary's River.

Will the large vault's water heat up in the vault and be deposited as warmer water to the ditch in MROP?

The soil and area around the outfall from the vault to the wetland soils and man made drainage ditch-way from this area vault could become warmer and have restricted ecology due to more impacts by area pollutants which will not have a chance to have, settle out or be filtered out, or be biodegraded as run off which comes into contact with natural/native topographic surfaces. Chemical waste, outwash from everything chemical in this subdivision will then be filtered into

the water table as it fluctuates seasonally, from below ground to flood stage in MROP.

All area vegetation is sensitive to dewatering and with each lot plumbed to drain directly to drain lines, possibly this is good to keep added lawn and garden irrigation and yard irrigation water from reaching native vegetation which dies because of too much water, but that if all water is removed all year, this will begin to damage/dry out area open spaces. Global climate change is warmer and dryer so this slope could be damaged quicker from interruption to native hydrology and slope dewatering below and around this subdivision and global temperature increases combined. This begins to become a fire hazard with upslope winds and homes in areas with lack of water and open spaces containing dry and dying vegetation.

Plantings around the large vault appear to be highly invasive and nonnative. Replacement trees for the small diameter trees should be the same tree species and for the large 48 inch very special set to be eliminated, Oregon White Oak that will be removed to dig a pit for the concrete vault, replacement tree should be similar type and collective diameter, so an invest in trade should be made as: twenty four- two inch diameter Oregon White Oak, planted and cared for to survive to be 48 inch diameter. The oak of significance to the history of this slope for over possibly 200 years, which is set to be removed, should be carefully checked for prehistoric/historic bole markings, metal markers and watched for archeologic materials in root areas since this tree is near the documented cultural site which will be bulldozed it appears for a home. This tree was present when prehistoric people used this high place to lookout over flooded valley floor areas.

The central Vault could be relocated, to where, we would like to see and read discussion about the other locations that have been considered. What is the reason for placing the vault in this area? What are reason's for not using ponds? Safety? Vault water weighs four pounds per gallon plus the weight of concrete, pipes and all fill that could destabilize if it is subject to saturation with native drainage which could still flow around and under this inset to the draws lower elevation, holding tank.

Will all the drainage from the upper sections of the subdivision be put into this central native drainage way, it appears possible with gabon engineering plan. The containment vault on Wolverine Drive to the east appears to only catch a single lot's worth of drainage and possibly will handle drainage from Wolverine Drive in this subdivision. From looking at the layout and area elevation, will Oakmont Subdivision drainage reach this vault down Wolverine Drive? If this containment vault is being placed at this location due to native drainage coming in from up slope, we should be informed about the location of this offsite drainage and provided information on the amount of water flowing into this area onto this subdivision plat from offsite.

We do not have a proper drainage plan and full drainage discussion. Did the Geotechnical report look at drainage and was it supposed to verify drainage?

I have to look at the old staff reports to figure out where the identified spring is located as it may not be shown in the new engineering drawings.

We are missing an engineering drawing which clearly defines the drainage grading plan overlain on mass grading and lot grade and fill plan. We need a better display of how site drains normally instead of being given general downward pointing arrows on an aerial image, used as a hydrology plan.

As an interested public and area resident, I am concerned for the safety of homes below this site. Home owners already have come to a very wet hill slope and have to deal with overland flow and heavy flows in open ditches and possibly at times, do experience overflowing twelve inch pipe systems to offsite drains in our open space park wetland and floodplain.

Using topography and estimation of the location of drainage using topographic map, and then flipping to the old staff report to read text detailing the Geotechnical Report findings, per location, makes reviewing more technical and allows freedom for the reviewer to not be able to clearly understanding the issue of area grading since lot grading and area drainage before and after development is not clearly presented.

Who knows what will happened to standing water on each lot, the entire hill slope could start to

fracture and roadbed crack because of grading and drainage issues we were not given a chance of evaluating due to lack of information.

Insurance costs for these home sites could reflect this lack of drainage information per each lot and for the overall plat.

Why has the developer changed from pond to vault water capture, storage and release systems? How well do these vault systems work and do they take power to operate, and do these vaults make a lot of noise as they function? Will the vault systems house waterborne pests? The vault at intersection of Wolverine and Brooklane Park Estates could be very noisy as water rushes down slope from Wolverine Drive.

If each lot is graded and homes are built individually as speculation, water will stand on each flat area for however long it takes to sell each mass graded and bulldozed or filled lot pad. Standing water in this hill slope area could create instability in the identified unstable areas if most of the area is over ten percent grade. Building footprints all appear away from the native grade of 25-25%, 15-25% and all appear to be inside the 10-15% slope so this limits where homes can be constructed, possibly due to type of surface the fill and grading have to anchor to rotting (oxidizing, fractured, decaying, ancient seafloor extruded pillow basalt and wave debris flow sandstone) and could become more unstable with fill on steep uplifted slopes.

So these steep areas are nice to not have to flatten/fill for homes and great to keep intact on this very visible, far way out south of town scenic and is an important and sacred hill slope to all who have owned it and have lived in this area over time.

Please request a drainage/hydrology/Geotechnical findings/engineering drawing to clearly show details for how this site drains.

Grading for the site did not show grading for each lot or grading for site drainage together, so if the lot and drainage grading could be overlain to the excepted mass grading plan in an engineering drawing, with topography and changes in topography as cut away views, then we may have a chance at understanding how this area will drain with each home site, and with native hydrology set to be diverted away from each lot and this water may be placed possibly into the central draw with new grade and new gabion erosion control and sediment pre-catchment/settling area engineering, to flow to the large central vault to be stored in large volume and released as native/pre-development flow rates will be better evaluated.

Thank you, Regards,
Rana Foster
1415 SW Brooklane Drive
Corvallis, Oregon

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Date: March 28, 2011

To: Mayor and City Council

From: Marilyn Koenitzer, 4240 SW Fairhaven Drive, 97333

Subject: Brooklane Heights (PLD06-00018, SUB06-0006). Storm Water Design

Please postpone this decision until the applicant has provided the grading plan for individual lots, which is an important part of the stormwater plan.

The third LUBA hearing decision on July 15, 2010, modified Conditions of Approval 20 and 27 of the latest City Council decision (Order 2010-007). Condition 20 tackles stormwater, while Condition 27 requires areas not previously approved to be graded. Both conditions are to be examined through a public hearing process to determine if they comply with their respective Comprehensive Plan Policies. On March 21, however, only the stormwater issue was heard. And that proposal was not sufficient since it did not address the exact location of the water pipes on the unapproved lots.

I think a reasonable person would agree that both of these items should be heard together. It was my and others' understanding that they would be heard together. Staff may know how grading and stormwater are linked, but neighbors do not, and neither do you decision makers, I suspect, unless you rely on staff. We need to know how the individual lot grading and the placement of the 12" pipes on the back of the lot will affect the stormwater plan.

According to City Staff, Mr. Wright has been coming to the city since October, with plans for storm drainage that were not acceptable. Well, why did Metolius Engineering under-design the stormwater project? If the applicant had designed the entire project correctly from the beginning (2007), we all (the applicant, the city and concerned citizens) could have saved a lot of time and money. The applicant continues to under-design and drag out the hearing process. Why did the applicant not include the lot-grading plan?

Metolius Engineering and the applicant should be able to provide information on both the stormwater system and the grading plans for individual lots at the same time. Doing so would save additional hearing costs for the city and save time for everyone. Even though you have had the storm water hearing, it would be in the best interest of the city and concerned citizens to postpone deliberations until the lot-grading plan is also submitted for your review.

Comments on the current stormwater proposal:

Your task is to evaluate the Brooklane Heights development using the 2000 Comprehensive Plan and the 1993 Land Development Code, both of which have been determined by City Staff and LUBA to be review criteria, not just guidelines as Mr. Wright stated at the hearing. The Comprehensive Plan has good policies (listed below), which call for preservation of hillsides and downslope wetlands so as not to cause

28 March 2011, from M. Koenitzer, re Brooklane Heights

landslide, excessive runoff, degradation of water quality, habitat destruction and erosion. The policies also address maintenance of drainageways and streams in their natural conditions. I have inserted a few policies (in Italics) that I find pertinent to the Brooklane Heights storm water design review.

4.2.c When natural systems are altered, they may not recover or return to their original state and ecological function. We do not yet fully understand the complex interactions between natural systems, or the cumulative impacts of changes on such systems.

I understand this proposal will alter the Brooklane Heights natural system; the question is, how much and what are the consequences? Has the developer done everything he can to keep the natural system intact? I know staff has worked long hours to improve the development plans, but are there other solutions that are more site-sensitive than what is being proposed?

4.6.c Hillside development changes the landscape and results in increased runoff and increased downstream peak flows. Changes generally include the loss of trees and shrubs that intercept and re-evaporate rainfall plus hillside cuts that prematurely bring ground water to the surface. Poor development practices on hillsides can require increased public expenditures for flood and erosion control and storm water management.

This is why we need to see the individual lot-grading plan with the stormwater plan.

4.10.8 Grading and filling in drainageways shall be regulated to prevent negative impact on the channel, floodway and flood plain, riparian habitat, wetlands, and other properties. Where drainageways are disturbed through development, the developer shall return the drainageway to its natural state, to the extent practicable.

To find out how the stormwater system is designed now, I went to city hall to look at the large-scale maps. It appears that a lot of water is collected, some in drainageways. The ingress road, Wolverine, is part of a natural drainageway on the southern end, and the 1996 Cultural Resources Inventory identified springs in this location, although the developer's plans fail to include this spring on their maps. One mapped spring that their plans do show, and its drainageway, both nearly centrally located on the property, have been engineered to drain into the center vault, through a drainage ditch. This channelizing of the spring seems to be at odds with Policy 4.10.8, above, since the spring will no longer flow as it does now through a natural stream lined with willows and sedges. The Division of State Lands has determined that this drainageway contains jurisdictional wetlands, but the developer has not included this information in your review packet. I found that water which is not collected in the central to northern part of the property is most likely better off left alone, since so much water may be collected that the hillside may not collect enough ground water to keep the native vegetation intact. It appears that this development or developer may keep only one of the

drainageways in its natural state.

4.10.9 Negative impacts on habitat and migration corridors for birds, wildlife, aquatic life, and on open space and the recreation qualities of significant drainageways shall be minimized.

Right now owls, hawks, other birds, deer, snakes, raccoons, rabbits, and perhaps small rodents habit the site. Coyote howl at night. The site is designated a significant wildlife habitat area. Development can only negatively impact most animals, as it deprives them of food, water, ground cover and trees within which they can live. The mapped spring will be drained into the covered central vault. I cannot imagine this is a good thing for wildlife. It is good, however, that the plan saves more trees than the plans by previous owners.

I hope the developer will contact downslope landowners to discuss possible use arrangements of the private driveway for access for maintenance of the stormwater detention system, if it can be moved or changed back to open detention ponds which wildlife could access.

4.11.12: Development upslope of wetlands shall minimize interference with water patterns discharging to wetlands, and shall minimize detrimental changes in water quality for waters discharging to wetlands.

Cut and fill and grading and capturing water into ponds or vaults can only interfere with water patterns. The question is, is the interference minimal, and what is that definition? This proposal claims to be consistent with this code because the outfall pipes which dump water into the wetland below are in the same location as they currently are. However, the water patterns do not simply refer to location – they also apply to volume and velocity of incoming water, both of which will be increased by diverting so much of the natural rainfall into detention vaults and pipes. Therefore, the proposal will not minimize interference with water patterns discharging to wetlands.

*4.6.7. In areas where development is permitted, standards in the Land Development Code for hillside areas **will achieve** the following:*

4.6.7 A. Plan development to fit the topography, soil, geology, and hydrology of hillsides and to ensure hillside stability both during and after development.

It appears that the plan does not fit the topography because it is calling for massive grading and cuts and fills far in excess of the customary 8 foot maximum – up to 20 feet in some areas.

4.6.7 C. Preserve significant natural features such as tree groves, woodlands, the tree-meadow interface, and specimen trees.

Please find an alternative to cutting the 48" diameter specimen tree.

When City Council approved the tentative development plan that proposes removing over 50 trees, they imposed Condition of Approval 5 that said the developer had to protect the remaining trees on the site, and could only remove additional trees if the city forester deemed them hazardous, or if they negatively impacted any Oregon oaks on the site. Now the applicant proposes to remove another 14 or 15 trees, including the finest specimen, in direct violation of this previous condition of approvalⁱ.

4.6.7 D. Align the built surface infrastructure, such as roads and waterways, with the natural contours of terrain and minimize cutting and filling in developments.

Most previous development in Corvallis has kept cuts and fills to 8 feet or less, and this development should be held to the same standard in order to comply with this part of the Comprehensive Plan. However, this proposal still proposes up to 20 foot cuts and fills. Their current stormwater design proposed 15 feet of fill across an 80 or 100-foot width of a current drainageway. I hope the city can keep cuts and fills to the absolute minimum, keeping with the intent of the Comprehensive Plan policies.

In the initial staff report to the Planning Commission, staff recommended denial of the project, in part because the grading plan did not meet code thenⁱⁱ. The fact that the applicant has not submitted the grading plan for the individual lots leads me to think that the plan still must not be in compliance four years later!

4.6.7 E. Minimize soil disturbances and the removal of native vegetation and avoid these activities during winter months unless impacts can be mitigated.

The applicant only addresses the second half of this policy – stating that they will not conduct grading in winter. However, the mass grading of 2/3 of the 45 lots and the unknown amounts of grading on the other 1/3 of the lots fails to minimize soil disturbances and removes a lot of native vegetation.

4.6.7 F. Design developments and utilize construction techniques that minimize erosion and surface water runoff.

I hope the 1993 code spells out the necessary construction techniques.

Does the proposed stormwater management plan achieve minimizing erosion?

4.6.7 G. Demonstrate a concern for the view of the hills as well as the view from the hills.

28 March 2011, from M. Koenitzer, re Brooklane Heights

The housing style in vogue now, with steep rooflines, does not fit the hillside topography pattern. I fear the houses will not appear to fit into the landscape but instead will become the dominant feature when viewed from or toward the hillside.

4.10.e Upstream development has downstream impacts on stream channels, amount of water, water quality, and downstream lands.

Again, this recognition in the Comprehensive Plan that upstream development has downstream impacts of the amount of water being discharged downstream is not addressed in the developer's claims of compliance – the Metolius report only addresses the location of the incoming water, not volume or velocity.

Due to the failure of the current stormwater design to clearly demonstrate compliance with each of these Corvallis Comprehensive Plan provisions, which are mandatory review criteria, I urge you to postpone making any further decisions on this proposed project until the applicant submits the required lot grading plan and the remaining elements of the stormwater design.

ⁱ Condition of Approval 5: Tree Preservation and Planting

Prior to issuance of any permits, the applicant shall submit a report by a certified arborist that identifies all significant trees proposed to be removed in this application.

Identified trees shall include those identified in the arborist report submitted with the subject application (Attachments S and R.55 of the May 25, 2007, staff report to the Planning Commission) trees impacted by construction of the pedestrian path between Badger Place and Wolverine Drive, trees impacted by construction of the stormwater swale in the north portion of the site, and trees potentially impacted by construction and use of the detention ponds in Tracts Band C.

Unless approved for removal through this application, trees in Tracts A, B, C, and D, as identified in the approved Revised Tentative Subdivision Plat shall be preserved unless a tree is determined to be a hazard tree, or its removal is necessary to protect the health and longevity of an Oregon White Oak tree. Prior to removal of any tree a certified arborist's report shall be submitted to the Community Development Department for review, and trees shall only be removed if the City's Urban Forester concurs with the analysis and recommendations in the arborist's report.

ⁱⁱ Quoting Ken Gibb in the 2007 Staff Report:

Page 20: The other issue remaining which was one that had prompted denial of the application is the grading plan for the site. The appellant revised plans have reduced both the extent and the depth of the cuts and fills in excess of 8 feet when compared to

the original applicant preferred grading plan. However from the information provided staff cannot determine if the lots that remain ungraded could be developed to the cut and fill standards in the LDC.

In addition staff do not believe it is appropriate to condition a project in a manner that would result in a need to obtain a Planned Development Modification for the condition to be met although the appellant may be willing to propose such a condition.

From the information provided staff were unable to find that the appellant had met the burden of proof regarding Appeal Issues 1 and 2 phasing and grading. Consequently staff recommend that the Council uphold the Planning Commission decision denying the Conceptual and Detailed Development Plans for the subject site.

Page 22: Staff does not believe the proposed Conditions of Approval as reflected in the revised grading plan satisfy the hillside development criteria in Comprehensive Plan Policy 4.6.7.

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MAR 28 2011

March 28, 2011

Community Development
Planning Division

Re: Brook Lane Heights
Sub-division

ATTN: Community Dev. Director
Ken Gibb, City Council Etc,

I could not attend the meeting on March 21st due to health reasons but after watching it on television I felt I must give you our concerns.

There are several items about this plan that alarm us such as grading etc, but the water disposal alarms us most. I'm not sure we trust this system to control a fast run-off in case of a major event. They state it will control anything that has happened in the last 10 years, but the last 10 years did not have a major event. Would it control the water we had in the 90's - 96? and all the other events?

If it rained nearly 4" in a 24 hr period it's most likely those tanks would over fill and a large amount of water would enter the wetland.

2

We coped and probably would be flooded. I have lived here over 50 years and I know first hand what that water run-off can do. It is an error to think the wetlands can absorb the abundance of water a major event would generate from a development of this size without major damage to those of us downstream.

Do you want to put a project in that doesn't live up to today's standards? Do you want to run the risk of flooding those along the wetlands and those directly under the project? Do you want to spend tax dollars on a questionable project that benefits so few and could devastate so many?

I agree with Jeanmi Raymond's questions about water disposal. Perhaps you should consider taking some, if not all of this water to the river, the wetlands have lots of water already.

This may be the most important decision you will make for our city.

Please consider the issue carefully, make the right choice. Thank you for your time and the work you do to make this city and the surrounding area a wonderful place to live.

Lois A. Lacy
John Lacy

1919 SW Brooklane
Corvallis, Or 97333

Richardson, Robert

From: Susan Morre [susanmorre@comcast.net]
Sent: Monday, March 28, 2011 4:55 PM
To: Richardson, Robert; Gibb, Ken
Cc: Mayor; Ward 1; Ward 2; Ward 3; Ward 4; Ward 5; Ward 6; Ward 7; Ward 8; Ward 9
Subject: Brooklane Heights DSL wetland delineation and runoff concerns
Attachments: Dr. Huber Brooklane Heights runoff concerns.htm; Brkline Hts Pending Wetland Delineations.doc; Morre March 28, 2011 additional testimony.docx

Please add the attached documents to the Brooklane Heights record. I attached additional documents for the Brooklane Heights record, which I hope the Council and Mayor will read. In particular, there are jurisdictional wetlands in the area which is being proposed for the central vault. See the illustration on page 7, and the additional documents. I did not find any record of this in the application materials.

Sincerely,
Susan Morre

From: Wayne Huber [wayne.huber@orst.edu]
Sent: Tuesday, January 20, 2009 4:33 PM
To: 'Susan Morre'
Subject: RE: accurate understanding of your comments on Brooklane Heights runoff concerns

Susan, I've tweaked the language below, even though what you have is basically Ok with me. And I appreciate that you indicate that a geotechnical engineering or other CE specialist is needed to more accurately guess the impact of the cuts.

Wayne

From: Susan Morre [mailto:susanmorre@comcast.net]
Sent: Tuesday, January 20, 2009 12:39 PM
To: wayne.huber@orst.edu
Subject: accurate understanding of your comments on Brooklane Heights runoff concerns

Hello, Dr. Huber,

Thanks for taking the time to meet with us last week and take a brief look at the Brooklane Heights cut and fill plan and geotechnical report. I know you are very busy, so we appreciate your review of the documents with us. I wish we had more time to use the SWMM5 model and plug in some data, but we would need the area and rainfall statistics to do it, I assume. I didn't find that information in the report.

Would you say this is an accurate summary of your initial response to the information? I want to make sure I didn't misinterpret anything, and I realize this is just a cursory review.

There will be a change in runoff: faster flow, higher volume and change in timing and duration (**faster response and shorter duration**, post-development compared to pre-development). It is likely to increase erosion on this slope, especially combined with surface vegetation removal. **The detention ponds will likely mitigate the downstream impact of a higher post-development peak flow, but will not mitigate the effect of a higher post-development runoff volume.**

It is not clear where the runoff of much of the site would go, because it didn't appear that the upper and lower detention ponds in one drainageway would handle the flow off the whole site, based on the topography. It appeared that the runoff from the western portion of the hill would likely run down Wolverine Drive and perhaps across Brooklane Drive. The report doesn't show what the flows would be (there are no calculations of contributing area and volumes).

The spring and perennial stream will likely dry up and that will negatively impact wildlife. There will be some impacts on the wetland below, and they must expect some negative impacts on water quality or they wouldn't propose using the BaySaver devices. However, there is less concern about the negative impacts on the wetland below than on impacts on the hydrology of the whole hillside and the stability of the slope if this amount of cutting and filling is done.

A bigger concern which raises a red flag is the depth of cuts and fills, large area and amount of mass grading on many of the lots, and remaining individual lots proposed to be graded up to eight feet. Cutting this deeply into the slope will take away the surficial aquifer and dewater the slope above the cuts. If the seepage out of the cuts is diverted into storm drains or detention ponds, it will also dewater large portions of the slope, meaning less water in the dry season over much of the slope. This drying out and loss of groundwater may lead to death of trees and other plants, OR the need for more extensive irrigation to make up the loss. There is valid concern

about the impacts on the existing houses along Fairmont Drive, particularly those along the upper two thirds of the street, with possible damage to foundations resulting from changes in the soil's behavior incident to ground water loss.

Another geotechnical soil specialist could offer more expert advice on soil stability concerns on these specific types of soils.

Thanks for making any corrections needed to my understanding of your comments.

Sincerely,

Susan Morre

WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

SEP 26 2008

This form must be included with any wetland delineation report submitted to the Department of State Lands for review and approval. A wetland delineation report submittal is not "complete" unless the fully completed and signed report cover form and the required fee are submitted. **Attach the form to the front of an unbound report and submit to: Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279**
Mail a copy of the completed form with payment of the required report review fee to: Oregon Department of State Lands, P.O. Box 4395, Unit 18, Portland, OR 97208-4395.
 For new credit card payment option, see DSL web site.

| | |
|---|---|
| <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner Name, Firm and Address: TC2 Investments, LLC - C/O Scott Sanders 4411 Sw Golf View Ave Corvallis, OR 97333 | Business phone # Mobile phone # (optional) FAX # E-mail: <u>tc2sanders@comcast.net</u> |
| <input checked="" type="checkbox"/> Authorized Legal Agent, Name and Address: Same as above | Business phone # FAX # Mobile phone # E-mail: |

I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the information in the report, after prior notification to the primary contact.
 Typed/Printed Name: _____ Signature: _____
 Date: _____ Special instructions regarding site access: _____

Project and Site Information (for latitude & longitude, use centroid of site or start & end points of linear project)

| | | |
|---|-------------------------------|---|
| Project Name: <u>Brooklane Heights</u> | Latitude: <u>N 44.541833</u> | Longitude: <u>W 123.287417</u> |
| Proposed Use: <u>Residential subdivision</u> | Tax Map # <u>12.5.10 C</u> | |
| Project Street Address (or other descriptive location): <u>Northwest of Brooklane Drive and Agate Ave, east of Fairmont Dr. and south of Whiteside Drive</u> | Township <u>12S</u> | Range <u>5W</u> Section <u>10</u> <u>QQ C</u> |
| City: <u>Corvallis</u> County: <u>Benton</u> | Tax Lot (s) <u>1000</u> | Waterway: <u>NA</u> River Mile: <u>NA</u> |
| | NW/ Quad(s): <u>Corvallis</u> | |

Wetland Delineation Information

| | |
|---|--|
| Wetland Consultant Name, Firm and Address: Zion Natural Resources Consulting P.O. Box 545 Monmouth, OR 97361 | Phone # <u>503-838-0103</u> Mobile phone # <u>503-881-4171</u> FAX # <u>503-623-7425</u> E-mail: <u>eric@zionconsulting.org</u> |
|---|--|

The information and conclusions on this form and in the attached report are true and correct to the best of my knowledge.
 Consultant Signature: _____ Date: 9/25/2008

Primary Contact for report review and site access is Consultant Applicant/Owner Authorized Agent

Wetland/Waters Present? Yes No Study Area size: 25.88 Total Wetland Acreage: 0.12

Check Box Below if Applicable:

| | |
|---|---|
| <input type="checkbox"/> R-F permit application submitted | <input checked="" type="checkbox"/> Fee payment submitted \$ <u>350</u> |
| <input type="checkbox"/> Mitigation bank site | <input type="checkbox"/> Fee (\$100) for resubmittal of rejected report |
| <input type="checkbox"/> Wetland restoration/enhancement project (not mitigation) | Name of Payor: _____ |
| <input type="checkbox"/> Industrial Land Certification Program Site | |

Other Information:

| | |
|---|--|
| Has previous delineation/application been made on parcel? | Y <input type="checkbox"/> N <input checked="" type="checkbox"/> |
| Does LWI, if any, show wetland or waters on parcel? | Y <input type="checkbox"/> N <input checked="" type="checkbox"/> |

For Office Use Only JM

| | | |
|--|------------------------------|---------------------------|
| DSL Reviewer: <u>LM</u> | Fee Paid Date: <u>9/1/08</u> | DSL WD # <u>2008-0494</u> |
| Date Delineation Received: <u>9.1.08 DS</u> | DSL Project # _____ | DSL Site # _____ |
| Scanned: <input type="checkbox"/> Final Scan: <input type="checkbox"/> | DSL WN # _____ | DSL App. # _____ |

Benton County Pending Wetland Delineations / Determinations

Application files are PDFs  Need Help? [\[More info...\]](#)

| Applicant (Click for Full Report) | Number (Click for Cover Form) | Status | Priority * | Type |
|---|---|-----------------------|----------------------|-----------------------|
| Caldwell South Farm LLC | WD2003-0047 | Rejected | | Wetland Delineation |
| Zaback Chuck | WD2003-0468 | Rejected | | Wetland Determination |
| Corvallis City of | WD2004-0249 | Information Requested | | Wetland Delineation |
| Corvallis Industrial Park LLC | WD2004-0554 | Information Requested | Tier 1 | Wetland Delineation |
| Pacific Reserve Services | WD2005-0224 | Rejected | Tier 1 | Wetland Delineation |
| Gilmour Marvin | WD2006-0151 | Information Requested | Tier 1 | Wetland Delineation |
| Reams Jeffrey | WD2006-0330 | Review Pending | Tier 1 | Wetland Delineation |
| Billman Isabel | WD2006-0568 | Rejected | Tier 2 | Wetland Delineation |
| Rodgers Gary | WD2008-0489 | Information Requested | | Wetland Delineation |
| TC2 Investments LLC | WD2008-0494 | Information Requested | | Wetland Delineation |

* *Tier 1* means DSL will attempt to review within 120 days. *Tier 2* means DSL will review when possible. Due to the current workload of DSL staff, *Tier 3* means that review is unlikely to occur.

[Home](#) | [Agency Site](#)

Wetland Delineation Detail

Wetland Delineation files are PDFs 

* *Tier 1* means DSL will attempt to review within 120 days. *Tier 2* means DSL will review when possible. Due to the current workload of DSL staff, *Tier 3* means that review is unlikely to occur.

| | |
|---------------------------------|--|
| Applicant | TC2 Investments LLC |
| Wetland Delineation Number | WD2008-0494 View Scanned Wetland Delineation  (File size: 6.57 MB) <i>(download of large files may be slow on some connections - please be patient)</i> |
| Type | Wetland Delineation |
| County | Benton |
| Location | 12S05W10C |
| Date Received | September 26, 2008 |
| Current Status | Information Requested |
| Priority * | |
| DSL Coordinator Phone Fax | Lynne McAllister 503-378-4844 |

WD#2008-0194

NOTICE: REPORTS ARE CONSIDERED DRAFT DOCUMENTS UNTIL REVIEW IS COMPLETED BY DSL. WETLAND MAPS MAY CHANGE AS A RESULT OF DSL REVIEW.

A. LANDSCAPE SETTING AND LAND USE

At the request of TC2 Investments, LLC.; Zion Natural Resources Consulting performed a wetland delineation on a 25.88 acre parcel on Tax Lot 1000 located northwest of Brooklane Drive and Agate Avenue, east of Fairmont Drive and south of Whiteside Drive in Corvallis, OR (T12S, R5W, Sec. 10 C). The site is currently vacant and undeveloped. The subject property is slopes from the north to the south with an approximate slope of 30% throughout most of the site consisting of hills and natural valleys. Residential subdivisions are located to the north, west, and south of the study area. The landscape consists of open grassland, some rock outcroppings, and Oregon Whit Oak savannahs. Previous land uses appeared to be agricultural including hay and pasture.

B. POSSIBLE SITE ALTERATIONS

There appears to be no significant site alteration except for some mowing within the northwest portion of the site. This alteration does not appear to affect the presence, location, or geographic boundaries of any waters of the state on the site.

C. PRECIPITATION DATA AND ANALYSIS

The month to date (May 20th, 2008) rainfall at this location was 0.22 inches according to the Oregon Climate Service at the Hyslop Experimental Station in Corvallis, OR. For the month of March the precipitation was 0.38 inches which is below the average of 2.30 inches according to the WETS table of Corvallis, OR listed below. (see Appendix E).

Below is the WETS table for Corvallis, Oregon with the past three months data highlighted.

WETS Station : CORVALLIS STATE UNIV, OR1862 Creation Date: 09/09/2002
 Latitude: 4438 Longitude: 12312 Elevation: 00230
 State FIPS/County(FIPS): 41003 County Name: Benton
 Start yr. - 1971 End yr. - 2000

| Month | Temperature (Degrees F.) | | | Precipitation (Inches) | | | | |
|-----------|-----------------------------|--------------|------|---------------------------|--------------|--------------|-----------------------------------|------------------------|
| | avg daily | avg daily | avg | avg | less than | more than | 30% chance will have [days] | avg [# of] total |
| January | 46.2 | 33.6 | 39.9 | 6.46 | 3.95 | 7.82 | 12 | 1.1 |
| February | 50.4 | 35.4 | 42.9 | 5.71 | 3.91 | 6.80 | 12 | 2.1 |
| March | 55.6 | 37.6 | 46.6 | 4.59 | 3.46 | 5.35 | 12 | 0.1 |
| April | 60.2 | 39.9 | 50.0 | 2.99 | 2.09 | 3.83 | 8 | 0.0 |
| May | 66.6 | 44.0 | 55.3 | 2.30 | 1.52 | 2.61 | 6 | 0.0 |
| June | 72.9 | 48.5 | 60.7 | 1.46 | 0.93 | 1.76 | 4 | 0.0 |
| July | 80.6 | 51.8 | 66.2 | 0.57 | 0.17 | 0.68 | 1 | 0.0 |
| August | 81.7 | 51.5 | 66.6 | 0.73 | 0.08 | 0.86 | 2 | 0.0 |
| September | 76.4 | 48.2 | 62.3 | 1.47 | 0.52 | 1.80 | 3 | 0.0 |
| October | 64.8 | 41.8 | 53.3 | 3.02 | 1.70 | 3.68 | 7 | 0.0 |
| November | 52.3 | 38.0 | 45.2 | 6.94 | 4.55 | 8.34 | 13 | 0.2 |
| December | 45.7 | 33.8 | 39.8 | 7.43 | 5.03 | 8.88 | 12 | 1.3 |

D. SITE-SPECIFIC / FIELD METHODOLOGY

A total of 13 sample plots were established on May 20, 2008 to document wetland and upland conditions within the project area. Plot locations were placed on all sides of the contiguous wetland areas. The number of sample plots documented is believed to be representative of the change in plant communities, soil features, or level of groundwater hydrology found within the study area.

E. WETLAND / WATERS OF THE STATE DESCRIPTION

The wetland appears to only be within two naturally formed drainages. The hydrology source appears to mainly be from springs at the beginning of each drainage. The western most drainage continues offsite to the south, while the eastern drainage appears to dissipate as it follows the topography to the south. The wetland boundaries of the drainages were defined by the topography as well as through the dominance of hydrophytic vegetation.

F. DEVIATION FROM NATIONAL AND/OR LOCAL WETLANDS INVENTORY

There are no wetland/waters of the state associated with this site as depicted on the National Wetland Inventory (NWI) Map (Figure 3a). The Local Wetland Inventory for this area also did not show any wetland or water of the state (Figure 3b).

G. MAPPING METHOD AND ESTIMATED ACCURACY

Wetland areas were established and flagged by Zion Natural Resources Consulting and were field surveyed to an accuracy of one meter.

H. ADDITIONAL INFORMATION TO HELP ESTABLISH STATE JURISDICTION

Hydrology in the study area is driven primarily by two springs along with surface flows during storm events. The hydrology then follows the microtopography of the subject property. The western drainage exits the property to the south into a stormwater grate along SW Brooklane Drive (Private Drive). The wetlands within the study area do not contain a fish presence due to the lack of aquatic features. The wetland boundaries were established based on topography and vegetation were in obvious visual contrast to the upland areas.

I. RESULTS AND CONCLUSIONS

Based upon our site reconnaissance and sampling of the three required wetland criteria (wetland hydrology, hydric soils, and hydrophytic vegetation), ZNR has identified approximately 0.12 acres of potentially jurisdictional wetlands classified as palustrine

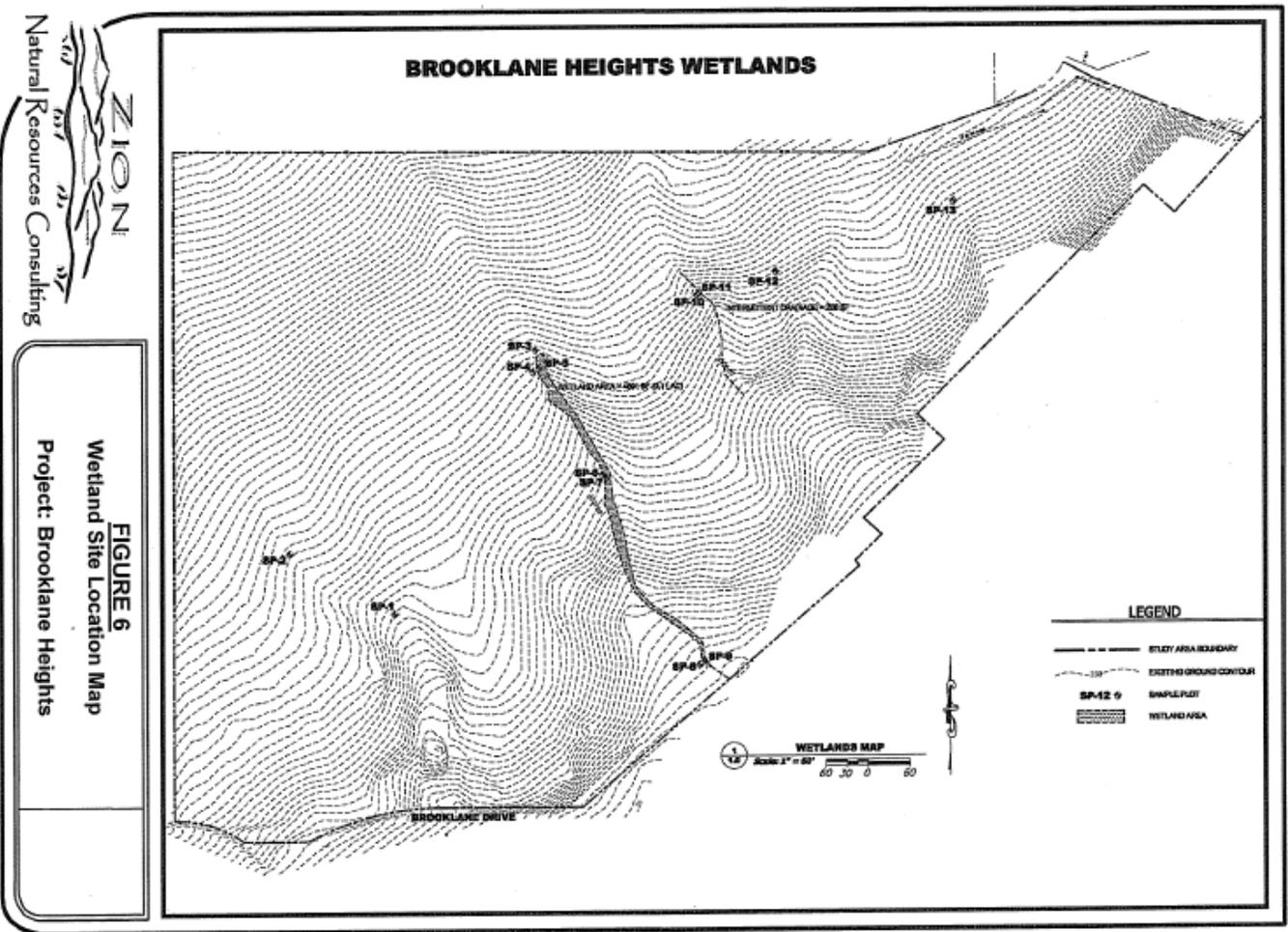
emergent wetlands. Figure 6 depicts the location of the potentially jurisdictional wetlands and sample sites. Upland in most instances is quite apparent and somewhat topographically defined (Photos 1-4).

J. LIMITATIONS AND REQUIRED DISCLAIMER

This report was prepared for the use of the client, its affiliates, lenders and assigns, their consultants and various governmental agencies. Any results and conclusions within this report represent our professional judgment based on the most recent information provided from publications, maps aerial photos, and field investigations as defined within the scope of services.

This report documents the investigation, best professional judgment and conclusions of the investigator. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-09-0055. The review process must be completed and the boundary concurred with, prior to any detailed site planning or construction activities take place.

NOTICE: REPORTS ARE CONSIDERED DRAFT DOCUMENTS UNTIL REVIEW IS COMPLETED BY DSL. WETLAND MAPS MAY CHANGE AS A RESULT OF DSL REVIEW.



Zion Natural Resources Consulting

DEPARTMENT OF STATE LANDS — WETLAND DETERMINATION DATA FORM

County: Benton City: Corvallis Date: 5-20-08 File # _____
 Project/Contact: Brooklane Heights / TC2 Investments Det. by: Eric Henning
 Plant Community: Herbaceous Plot #: SP-5
 Plot location: Central portion of the site - within channel/drainage
 Recent Weather: Sunny past 48 hours
 Do normal environ. conditions exist? Y N If No, explain: _____
 Has Veg. Soil Hydrology been significantly disturbed? No
 Explain: _____

VEGETATION

| | | | | | |
|------------------------------|-------------|-------------|---------------------------|-------------|-------------|
| <u>Tree Stratum</u> | | | <u>Herb Stratum</u> | | |
| Total Cover: _____ % | 50% _____ % | 20% _____ % | Total Cover: <u>100%</u> | 50% _____ % | 20% _____ % |
| 1. _____ % | | | 1. <u>*Juncus patens</u> | <u>FACW</u> | <u>100%</u> |
| 2. _____ % | | | 2. _____ % | | |
| 3. _____ % | | | 3. _____ % | | |
| <u>Sapling/Shrub Stratum</u> | | | <u>Woody/Vine Stratum</u> | | |
| Total Cover: _____ % | 50% _____ % | 20% _____ % | Total Cover: _____ % | 50% _____ % | 20% _____ % |
| 1. _____ % | | | 4. _____ % | | |
| 2. _____ % | | | 5. _____ % | | |
| 3. _____ % | | | 6. _____ % | | |
| | | | 7. _____ % | | |
| | | | 8. _____ % | | |
| | | | 9. _____ % | | |
| | | | 10. _____ % | | |
| | | | 11. _____ % | | |
| | | | 12. _____ % | | |

Percent of Dominant Species that are OBL, FACW, FAC (not FAC-): 1/1 or 100%
 Other Hydrophytic Vegetation Indicators: _____

Criteria Met? **YES** **NO** Comments: Him blackberry and white oak rooted outside

SOILS

Map Unit Name: Willakenzie-Wellsdale Complex Drainage Class: Well drained
 On Hydric Soils List? Y N Has hydric inclusions? Y N
 Depth: 0-16" Matrix Color: 2.5Y 4/1 Redox Concentrations*: 7.5YR 4/6 Redox Depletions*: _____ Texture: Loam

Hydric Soil Indicators: _____ * abund./size/contrast/color/location (matrix or pores/peds)

| | |
|---|--|
| <input type="checkbox"/> Histosol | <input type="checkbox"/> Concretions/Nodules (w/in 3"; > 2mm) |
| <input type="checkbox"/> Histic Epipedon | <input type="checkbox"/> High organic content in surface (in Sandy Soils) |
| <input type="checkbox"/> Sulfidic Odor | <input type="checkbox"/> Organic streaking (in Sandy Soils) |
| <input type="checkbox"/> Reducing Conditions (tests positive) | <input type="checkbox"/> Organic pan (in Sandy Soils) |
| <input checked="" type="checkbox"/> Gleyed or low chroma colors and/or redox. Features within 10" surface | <input type="checkbox"/> Listed on Hydric Soils List (and soil profile matches) |
| | <input type="checkbox"/> Meets hydric soil criteria 3 or 4 (ponded or flooded for long duration) |
| | <input type="checkbox"/> Supplemental indicator (e.g. NRCS field indicator): _____ |

Criteria Met? **YES** **NO** Comments: _____

HYDROLOGY

Recorded Data
 Recorded Data Available Aerial Photos Stream gauge Other No Recorded Data Available

Field Data
 Depth of inundation: _____ Depth to Saturation: Surface Depth to free water: 3"

Primary Hydrology Indicators: _____ Secondary Hydrology Indicators (2 or more required): _____

| | |
|--|--|
| <input type="checkbox"/> Inundated | <input checked="" type="checkbox"/> Oxidized Root Channels (upper 12") |
| <input checked="" type="checkbox"/> Saturated in upper 12 inches | <input type="checkbox"/> Water-stained Leaves |
| <input type="checkbox"/> Water Marks | <input type="checkbox"/> Local Soil Survey Data |
| <input type="checkbox"/> Drift Lines | <input checked="" type="checkbox"/> FAC-Neutral Test |
| <input type="checkbox"/> Sediment Deposits | <input type="checkbox"/> Other: _____ |
| <input checked="" type="checkbox"/> Drainage Patterns | |

Criteria Met? **YES** **NO** Comments: _____

DETERMINATION

WETLAND? **YES** **NO** Comments: _____

DEPARTMENT OF STATE LANDS — WETLAND DETERMINATION DATA FORM

County: Benton City: Corvallis Date: 5-20-08 File # _____
 Project/Contact: Brooklane Heights / TC2 Investments Det. by: Eric Henning
 Plant Community: Herbaceous, Sapling/Shrub, Plot #: SP-7
 Plot location: South central portion of the site - channel
 Recent Weather: Sunny past 48 hours
 Do normal environ. conditions exist? Y N If No, explain: _____
 Has Veg. Soil Hydrology been significantly disturbed? No
 Explain: _____

VEGETATION

| | | | | | |
|-------------------------------|-------------|-------------|--------------------------------|-------------|-------------|
| <u>Tree Stratum</u> | | | <u>Herb Stratum</u> | | |
| Total Cover: _____ % | 50% _____ % | 20% _____ % | Total Cover: <u>70%</u> | 50% _____ % | 20% _____ % |
| 1. _____ % | | | 1. <u>*Juncus patens</u> | <u>FACW</u> | <u>40%</u> |
| 2. _____ % | | | 2. <u>*Festuca arundinacea</u> | <u>FAC-</u> | <u>50%</u> |
| 3. _____ % | | | 3. <u>Galium aparine</u> | <u>FACU</u> | <u>10%</u> |
| <u>Sapling/Shrub Stratum</u> | | | | | |
| Total Cover: <u>10%</u> | 50% _____ % | 20% _____ % | 4. _____ % | | |
| 1. <u>*Fraxinus latifolia</u> | <u>FACW</u> | <u>100%</u> | 5. _____ % | | |
| 2. _____ % | | | 6. _____ % | | |
| 3. _____ % | | | 7. _____ % | | |
| <u>Woody/Vine Stratum</u> | | | | | |
| Total Cover: _____ % | 50% _____ % | 20% _____ % | 8. _____ % | | |
| 1. _____ % | | | 9. _____ % | | |
| 2. _____ % | | | 10. _____ % | | |
| | | | 11. _____ % | | |
| | | | 12. <u>Bare ground</u> | | <u>30%</u> |

Percent of Dominant Species that are OBL, FACW, FAC (not FAC-): 2/3 or 67%
 Other Hydrophytic Vegetation Indicators: _____
 Criteria Met? YES NO Comments: _____

SOILS

Map Unit Name: Willakenzie-Wellsdale Complex Drainage Class: Well drained
 On Hydric Soils List? Y N Has hydric inclusions? Y N

| Depth | Matrix Color | Redox Concentrations* | Redox Depletions* | Texture |
|---------------|--------------------------|-----------------------|--------------------------------|-------------|
| <u>0-12"</u> | <u>10YR 3/3</u> | <u>7.5YR 4/6</u> | <u>Many, Medium, Distinct</u> | <u>Loam</u> |
| <u>12-16"</u> | <u>10YR 3/3+2.5Y 4/1</u> | <u>7.5YR 4/6</u> | <u>Many, Medium, Prominent</u> | <u>Loam</u> |

Hydric Soil Indicators: _____ * abund./size/contrast/color/location (matrix or pores/peds)

| | |
|---|--|
| <input type="checkbox"/> Histosol | <input type="checkbox"/> Concretions/Nodules (w/in 3"; > 2mm) |
| <input type="checkbox"/> Histic Epipedon | <input type="checkbox"/> High organic content in surface (in Sandy Soils) |
| <input type="checkbox"/> Sulfidic Odor | <input type="checkbox"/> Organic streaking (in Sandy Soils) |
| <input type="checkbox"/> Reducing Conditions (tests positive) | <input type="checkbox"/> Organic pan (in Sandy Soils) |
| <input checked="" type="checkbox"/> Gleyed or low chroma colors and/or redox. Features within 10" surface | <input type="checkbox"/> Listed on Hydric Soils List (and soil profile matches) |
| | <input type="checkbox"/> Meets hydric soil criteria 3 or 4 (ponded or flooded for long duration) |
| | <input type="checkbox"/> Supplemental indicator (e.g. NRCS field Indicator): _____ |

Criteria Met? YES NO Comments: _____

HYDROLOGY

Recorded Data
 Recorded Data Available Aerial Photos Stream gauge Other No Recorded Data Available

Field Data
 Depth of inundation: _____ Depth to Saturation: Surface Depth to free water: 3'

| | |
|--|--|
| Primary Hydrology Indicators: | Secondary Hydrology Indicators (2 or more required): |
| <input type="checkbox"/> Inundated | <input checked="" type="checkbox"/> Oxidized Root Channels (upper 12") |
| <input checked="" type="checkbox"/> Saturated in upper 12 inches | <input checked="" type="checkbox"/> Water-stained Leaves |
| <input type="checkbox"/> Water Marks | <input type="checkbox"/> Local Soil Survey Data |
| <input type="checkbox"/> Drift Lines | <input checked="" type="checkbox"/> FAC-Neutral Test |
| <input type="checkbox"/> Sediment Deposits | <input type="checkbox"/> Other: _____ |
| <input checked="" type="checkbox"/> Drainage Patterns | |

Criteria Met? YES NO Comments: _____

DETERMINATION

WETLAND? YES NO Comments: _____

DEPARTMENT OF STATE LANDS — WETLAND DETERMINATION DATA FORM

County: Benton City: Corvallis Date: 5-20-08 File # _____
 Project/Contact: Brooklane Heights / TC2 Investments Det. by: Eric Henning
 Plant Community: Herbaceous, Sapling/Shrub, Tree Plot #: SP-9
 Plot location: South central portion of the site
 Recent Weather: Sunny past 48 hours
 Do normal environ. conditions exist? Y N If No, explain: _____
 Has Veg. Soil Hydrology been significantly disturbed? No
 Explain: _____

VEGETATION

| Tree Stratum | | | | Herb Stratum | | | |
|---------------------------------|------|------|------|------------------------|-----|-----|------|
| Total Cover: | 50% | 20% | % | Total Cover: | 50% | 20% | % |
| 1. * <u>Quercus garryana</u> | NOL | 40% | | 1. _____ | | | % |
| 2. * <u>Fraxinus latifolia</u> | FACW | 60% | | 2. _____ | | | % |
| 3. _____ | | | % | 3. _____ | | | % |
| Sapling/Shrub Stratum | | | | Woody/Vine Stratum | | | |
| Total Cover: | 50% | 20% | % | Total Cover: | 50% | 20% | % |
| 1. * <u>Crataegus douglasii</u> | FAC | 100% | | 1. _____ | | | % |
| 2. _____ | | | % | 2. _____ | | | % |
| 3. _____ | | | % | 3. _____ | | | % |
| 4. _____ | | | % | 4. _____ | | | % |
| 5. _____ | | | % | 5. _____ | | | % |
| 6. _____ | | | % | 6. _____ | | | % |
| 7. _____ | | | % | 7. _____ | | | % |
| 8. _____ | | | % | 8. _____ | | | % |
| 9. _____ | | | % | 9. _____ | | | % |
| 10. _____ | | | % | 10. _____ | | | % |
| 11. _____ | | | % | 11. _____ | | | % |
| 12. <u>Bare ground</u> | | | 100% | 12. <u>Bare ground</u> | | | 100% |

Percent of Dominant Species that are OBL, FACW, FAC (not FAC-): 2/3 or 67%

Other Hydrophytic Vegetation Indicators: _____

Criteria Met? YES NO Comments: _____

SOILS

Map Unit Name: Willakenzie-Wellsdale Complex Drainage Class: Well drained
 On Hydric Soils List? Y N Has hydric inclusions? Y N

| Depth | Matrix Color | Redox Concentrations | Redox Depletions* | Texture |
|--------------|-----------------|----------------------|------------------------------|-------------|
| <u>0-16"</u> | <u>10YR 3/2</u> | <u>7.5YR 4/6</u> | <u>Few, Medium, Distinct</u> | <u>Loam</u> |

- Hydric Soil Indicators: _____ * abund./size/contrast/color/location (matrix or pores/peds)
- | | |
|---|--|
| <input type="checkbox"/> Histosol | <input type="checkbox"/> Concretions/Nodules (w/in 3"; > 2mm) |
| <input type="checkbox"/> Histic Epipedon | <input type="checkbox"/> High organic content in surface (in Sandy Soils) |
| <input type="checkbox"/> Sulfidic Odor | <input type="checkbox"/> Organic streaking (in Sandy Soils) |
| <input type="checkbox"/> Reducing Conditions (tests positive) | <input type="checkbox"/> Organic pan (in Sandy Soils) |
| <input checked="" type="checkbox"/> Gleyed or low chroma colors and/or redox. Features within 10" surface | <input type="checkbox"/> Listed on Hydric Soils List (and soil profile matches) |
| | <input type="checkbox"/> Meets hydric soil criteria 3 or 4 (ponded or flooded for long duration) |
| | <input type="checkbox"/> Supplemental indicator (e.g. NRCS field indicator): _____ |

Criteria Met? YES NO Comments: Very few mottles in the plot

HYDROLOGY

Recorded Data
 Recorded Data Available Aerial Photos Stream gauge Other No Recorded Data Available

Field Data
 Depth of inundation: _____ Depth to Saturation: None Depth to free water: None

- | Primary Hydrology Indicators: | Secondary Hydrology Indicators (2 or more required): |
|---|--|
| <input type="checkbox"/> Inundated | <input type="checkbox"/> Oxidized Root Channels (upper 12") |
| <input type="checkbox"/> Saturated in upper 12 inches | <input checked="" type="checkbox"/> Water-stained Leaves |
| <input type="checkbox"/> Water Marks | <input type="checkbox"/> Local Soil Survey Data |
| <input type="checkbox"/> Drift Lines | <input type="checkbox"/> FAC-Neutral Test |
| <input type="checkbox"/> Sediment Deposits | <input checked="" type="checkbox"/> Other: <u>Topography</u> |
| <input checked="" type="checkbox"/> Drainage Patterns | |

Criteria Met? YES NO Comments: _____

DETERMINATION

WETLAND? YES NO Comments: _____

DEPARTMENT OF STATE LANDS — WETLAND DETERMINATION DATA FORM

County: Benton City: Corvallis Date: 5-20-08 File # _____
 Project/Contact: Brooklane Heights / TC2 Investments Det. by: Eric Henning
 Plant Community: _____ Plot #: SP-11
 Plot location: North central portion of the site - within channel
 Recent Weather: Sunny past 48 hours
 Do normal environ. conditions exist? Y N If No, explain: _____
 Has Veg. Soil Hydrology been significantly disturbed? No
 Explain: _____

VEGETATION

| | | | | | | | |
|------------------------------|-------------|-------------|---------|------------------------------|-------------|-------------|-------------|
| <u>Tree Stratum</u> | | | | <u>Herb Stratum</u> | | | |
| Total Cover: _____ % | 50% _____ % | 20% _____ % | _____ % | Total Cover: <u>0%</u> | 50% _____ % | 20% _____ % | _____ % |
| 1. _____ % | _____ % | _____ % | _____ % | 1. <u>void of vegetation</u> | _____ % | _____ % | _____ % |
| 2. _____ % | _____ % | _____ % | _____ % | 2. _____ % | _____ % | _____ % | _____ % |
| 3. _____ % | _____ % | _____ % | _____ % | 3. _____ % | _____ % | _____ % | _____ % |
| <u>Sapling/Shrub Stratum</u> | | | | 4. _____ % | | | |
| Total Cover: _____ % | 50% _____ % | 20% _____ % | _____ % | 5. _____ % | _____ % | _____ % | _____ % |
| 1. _____ % | _____ % | _____ % | _____ % | 6. _____ % | _____ % | _____ % | _____ % |
| 2. _____ % | _____ % | _____ % | _____ % | 7. _____ % | _____ % | _____ % | _____ % |
| 3. _____ % | _____ % | _____ % | _____ % | 8. _____ % | _____ % | _____ % | _____ % |
| <u>Woody/Vine Stratum</u> | | | | 9. _____ % | | | |
| Total Cover: _____ % | 50% _____ % | 20% _____ % | _____ % | 10. _____ % | _____ % | _____ % | _____ % |
| 1. _____ % | _____ % | _____ % | _____ % | 11. _____ % | _____ % | _____ % | _____ % |
| 2. _____ % | _____ % | _____ % | _____ % | 12. <u>bare ground</u> | _____ % | _____ % | <u>100%</u> |

Percent of Dominant Species that are OBL, FACW, FAC (not FAC-): _____ %
 Other Hydrophytic Vegetation Indicators: _____
 Criteria Met? YES NO Comments: _____

SOILS

Map Unit Name: Willakenzie-Wellsdale Complex Drainage Class: Well drained
 On Hydric Soils List? Y N Has hydric inclusions? Y N
 Depth Matrix Color Redox Concentrations* Redox Depletions* Texture
0-16" 10YR 3/2+2.5Y 4/1 7.5YR 4/6 Many, Medium, Prominent Loam

Hydric Soil Indicators: _____ * abund./size/contrast/color/location (matrix or pores/peds)
 Histosol Concretions/Nodules (w/in 3"; > 2mm)
 Histic Epipedon High organic content in surface (in Sandy Soils)
 Sulfidic Odor Organic streaking (in Sandy Soils)
 Reducing Conditions (tests positive) Organic pan (in Sandy Soils)
 Gleyed or low chroma colors and/or Listed on Hydric Soils List (and soil profile matches)
 redox. Features within 10" surface Meets hydric soil criteria 3 or 4 (ponded or flooded for long duration)
 Supplemental indicator (e.g. NRCS field indicator): _____

Criteria Met? YES NO Comments: _____

HYDROLOGY

Recorded Data
 Recorded Data Available Aerial Photos Stream gauge Other No Recorded Data Available

Field Data
 Depth of inundation: _____ Depth to Saturation: Surface Depth to free water: 3'

| | | | |
|--|---|---|---|
| <u>Primary Hydrology Indicators:</u> | | <u>Secondary Hydrology Indicators (2 or more required):</u> | |
| <input type="checkbox"/> Inundated | <input type="checkbox"/> Oxidized Root Channels (upper 12") | <input type="checkbox"/> Water-stained Leaves | <input type="checkbox"/> Local Soil Survey Data |
| <input checked="" type="checkbox"/> Saturated in upper 12 inches | <input type="checkbox"/> Water-stained Leaves | <input type="checkbox"/> FAC-Neutral Test | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Water Marks | <input type="checkbox"/> Local Soil Survey Data | | |
| <input type="checkbox"/> Drift Lines | <input type="checkbox"/> FAC-Neutral Test | | |
| <input type="checkbox"/> Sediment Deposits | <input type="checkbox"/> Other: _____ | | |
| <input type="checkbox"/> Drainage Patterns | | | |

Criteria Met? YES NO Comments: _____

DETERMINATION

WETLAND? YES NO Comments: _____

DATE: March 28, 2011

SUBJECT: Brooklane Heights Subdivision (PLD06-00018, SUB06-00006, LUBA 2009-042)

TO: Corvallis Mayor, City Council, and City Staff

Additional testimony of Susan Morr 

The new Stormwater Design submitted for City Council review does not comply with several conditions of approval contained in the February 3, 2010 City Council disposition:

Condition of Approval 1:

Consistency with Plans – Development shall comply with the narrative and plans identified in or referenced in **Attachment IX** of the August 10, 2007, Memorandum to the City Council from Community Development Director, Ken Gibb, except as modified by the conditions below or unless a requested modification otherwise meets the criteria for a Planned Development Modification and/or a Tentative Plat Modification. Such changes may be processed in accordance with Chapters 2.4 and 2.5 of the Land Development Code.

Drawing 1.7, submitted by the applicant (see page 45 of council packet, CC Exhibit II – 11) is not consistent with the previous drawings in attachment IX. Drawing 1.7 shows bits and pieces of elevation lines and portions of proposed cuts and fills that are not consistent with those proposed in the previously submitted revised cut / fill analysis drawing Y (page 67). In particular, areas shown to have excessive cuts and fills are not clearly shown in the new drawing to enable Council to determine whether they comply with previously approved plans.

Drawing 1.7 (page 45, CC Exhibit II – 11) also does not show the jurisdictional wetlands that the Zion submitted to the Division of State Lands (see page 7 map of wetlands on attached Zion report). Condition of Approval 6 required that this documentation be submitted and that the applicant shall verify that site development and wetland mitigation plans comply with all applicable local, state, and federal wetland regulations. The applicant has not done so. It appears that the proposed central detention vault is located within this wetland area.

Condition of Approval 6:

Wetland Determination - Prior to issuance of PIPC permits, the applicant shall submit a wetland determination report indicating the presence of wetlands. If wetlands are found to be present on the site, prior to issuance of excavation and grading permits, the applicant shall submit documentation from the Department of State Lands verifying that the site development and wetland mitigation plans comply with all applicable local, state, and federal wetland regulations.

I already submitted testimony citing lack of compliance with Condition of Approval 5 (Tree Preservation). The plans do not comply with Condition 19 (open detention ponds) and submit plans for massive detention vaults in the documented wetland area, which does not comply with Comprehensive

Plan Policy 4.11.12 and violates codes related to structures in drainageways (as noted in Ken Gibb's 2007 staff report which recommended denying the project).

Condition of Approval 27 Lot Grading and Structures – the new stormwater plan does not match the grading or structures identified in Drawing X, or Drawing Y, as required in this condition. This new plan also does not comply with LDC Chapter 4.5 related to drainageway easements, due to the proposed construction of concrete vaults in documented drainageways with jurisdictional wetlands. This 8000 square foot vault with a chain link fence around it does not demonstrate a concern for the view from the hill for neighbors above.

Based on these failures to comply with several previous Conditions of Approval, as well as numerous portions of CCP 4.6.7 and 4.11.12, as previously detailed, I request that you deny this proposal and have the applicant submit a new plan that meets all current local and state codes.

Sincerely,

Susan Morré
2775 SW Fairmont Drive
Corvallis, OR 97333

Richardson, Robert

From: Susan Morre [susanmorre@comcast.net]

Sent: Monday, March 28, 2011 4:59 PM

To: Richardson, Robert

Subject: BH

And just in case we need to say it, based on all the testimony submitted, the stormwater plan does not meet the LUBA requirements as specified.

Susan Morre

Richardson, Robert

From: Joe Casprowiak [Joecasprowiak@comcast.net]
Sent: Sunday, March 27, 2011 2:21 PM
To: Ward 1; Ward 2; Ward 3; Ward 4; Ward 5; Ward 6; Ward 7; Ward 8; Ward 9; Mayor; Richardson, Robert; Ken.Gibbs@ci.corvallis.or.us
Subject: Brooklane Heights grading and drainage planning
Attachments: sw_tour_2010 327 (2).jpg

Dear Bob, Mayor, and City Council members,

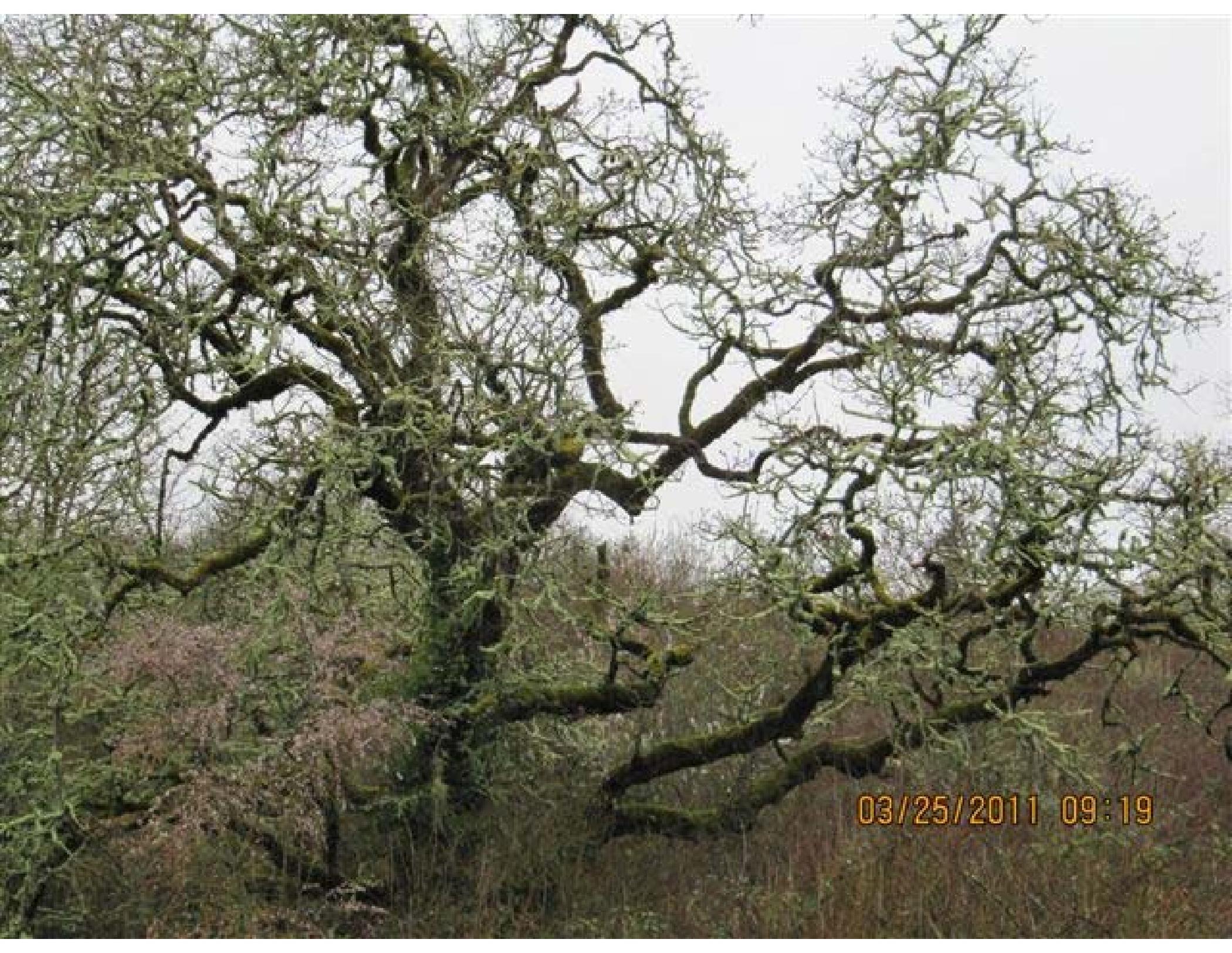
This is in regard to the proposed new land grading and storm drain plans for the Brooklane Heights subdivison. We live at 2640 SW Brooklane Dr. , a stones throw from the proposed massive detention vault. We are dismayed by the lack of detailed plans about the future lot grading and drainage. The drainage ditch in front of our house is brimming with water most of the winter. It wouldn't take much to send it down to our front door as it is. The lack of detail in their proposals seem to us a cavalier assumption that the city will rubberstamp anything in order to promote construction. Please insisit upon a full review of what they intend to do! Please do not allow corners to be cut, risking costly effects upon us downhill from this development.

The massive oak above our lot is a gorgeous specimen, which under this new plan would be removed. This would be contrary to LDC 4.2.20 ,that significant plant and tree specimens be preserved to the greatest extent pracitable, and integrated into the design of the development. Cutting the magnificent oak would not comply with the Feb. 1, 2011 Condition of Approval, or with CCP 4.6.7c , about tree preservation as required by LUBA.

If nothing else, please require the plans to be altered in order to preserve this oak, Photinia and red maples could never replace the habitat afforded by this oak tree. (see attached image)

Sincerely,

Pam and Joseph Casprowiak



03/25/2011 09:19

Richardson, Robert

From: taylorgh@comcast.net
Sent: Sunday, March 27, 2011 10:00 PM
To: Ward 1; Ward 2; Ward 3; Ward 4; Ward 5; Ward 6; Ward 7; Ward 8; Ward 9
Cc: Richardson, Robert; Mayor
Subject: [SPAM] Brooklane Heights
Importance: Low



March 27, 2011

To: Corvallis Mayor and City Council

RE: Brooklane Heights Subdivision (PLD06-00018, SUB06-00006, LUBA 2009-042)

I have testified twice in regard to the Brooklane Heights project. Both times I chose to be “neutral,” because I believe that owners of property should be given the freedom to develop or improve their property – provided, that is, that they follow applicable laws, statutes and regulations. As I studied the proposal to develop Brooklane Heights, it became clear that such adherence to rules was not being followed; in fact, the original proposal requested more than 20 variances. Perhaps this is why the City Planning Department and the Planning Commission voted “no,” a recommendation that was overturned by the City Council.

Even now, following three LUBA hearings, the applicant has not issued a detailed grading plan for lots which are not mass-graded. A complete stormwater design showing locations of large drainage pipes is also missing. In addition, the storm drainage plan has been updated to include covered stormwater detention units instead of previously approved open ponds; the net effect of such a change is unknown. Finally, recent changes to the development proposal include cutting down 15 additional trees, including a very large oak, in violation of Council’s Condition of Approval on tree preservation and protection (condition 5).

I urge you to visit this site if you have not yet done so. I also strongly recommend that you rescind the previous approval and require the applicant to submit a plan that conforms more closely to current codes.

Sincerely,

George H. Taylor
2795 SW Fairmont Dr.
Corvallis 97333

Richardson, Robert

From: Elizabeth Capizzi [eacapizz@peak.org]
Sent: Friday, March 25, 2011 9:32 AM
To: Richardson, Robert
Subject: Comments about " Brooklane Heights/ Brook Land Park

----- Original Message -----

From: [Elizabeth Capizzi](mailto:Elizabeth.Capizzi@peak.org)
To: robert.richardson@ci.or.us
Sent: Friday, March 25, 2011 9:08 AM
Subject: Comments about " Brooklane Heights/ Brook Land Park

----- Original Message -----

From: [Elizabeth Capizzi](mailto:Elizabeth.Capizzi@peak.org)
To: Theresa.Novak@gtconnect.com
Sent: Friday, March 25, 2011 8:53 AM
Subject: Brook Lane-Park a better Use

BROKEN PROMISES = LAND USE CODES

Brooklane Heights Subdivision proposal was correctly identified as too steep with erosion issues --for the subdivision planned....Still , the developer has gotten around the land use law .So now instead of Brooklane Park (proposed) we can look forward to lawsuits , a clear cut of old oak trees , 8 foot fills, and 20 foot cuts below homes on country club hill, one of our "best neighborhoods". The greatest tree= 48" across, would be cut to put an ugly old fashioned water treatment structure...obstructing the great view of the older homes.It is an injustice to those who had faith in law and built there with an assurance of code protections. They should sue for damages.Their homes and quality of life is threatened.

There exists today an example of the instability in the same area
 =off Fairhaven Dr.-a serious erosion/failure.

Property values will be negatively affected for sure and destabilization of the whole area is possible.

They are breaking codes to sell lots, bending laws that should protect our neighbors. Smells like corruption. We taxpayers are paying for this foolishness and our community suffers, as well as nature.

The developer has not yet even proved the issues of grading , "phasing"water runoff and instability to meet conditions of Appeals 1 and 2.

He has not submitted plans about the grading etc so how can this be approved?! 15% slopes are the unbuildable limit. They must comply with the code (CCP 4.6.7) Where are the plans to see if they comply? If this is allowed it will be a travesty. The staff should expect lawsuits and all fo us should be angry at \$\$\$\$+ wasted and good laws flaunted.

EA Capizzi ,Lifelong citizen

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the Brooklane Heights proposal

- To: ward8@xxxxxxx
- Subject: the Brooklane Heights proposal
- From: kirk nevin <corvallisgadfly@xxxxxxx>
- Date: Fri, 25 Mar 2011 08:45:32 -0700

Dear Mr. Traber,

I hope you will take the time to carefully read the passionate statement by Susan and Jeff Morre (and seven other signators) in the Letters to the Editor section of today's Gazette-Times. See 'Brooklane Heights project still not ready for development'.

The letter addresses, in very clear and unambiguous language, the troubled history of the proposed development at Brooklane Heights.

The letter is a perfect example of the reasons we have put in place a Planning Commission, with carefully-defined rules regarding all the physical attributes of proposed development with the City. Those rules are important! They form the basis for decisions that protect all Corvallis residents from the greed and carelessness of voracious developers.

I hope you will be convinced that the Brooklane Heights proposal is not in the best interests of the citizens of Corvallis, and that the destruction of another piece of the heritage of natural lands in our city is counterproductive in every sense (except, of course, to make the developer rich).

This is one of those times, Mr. Traber, when your leadership is so important. Please consider the best interests of your constituents in Ward 8, and those of all other wards as well. We live in a wonderful, vibrant, healthy city, and we have an obligation to keep it that way!

Namaste.

Kirk Nevin

- Prev by Date: **[Fwd: <web>transit system funding]**
- Next by Date: **Rep. Dennis Richardson - March 25, 2011 Newsletter -- Managing Oregon's Workforce**
- Previous by thread: **[Fwd: <web>transit system funding]**
- Next by thread: **Rep. Dennis Richardson - March 25, 2011 Newsletter -- Managing Oregon's Workforce**
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Richardson, Robert

From: Gibb, Ken
Sent: Monday, March 28, 2011 9:11 AM
To: Richardson, Robert
Subject: FW: <web>Brooklane Heights Subdivision

Importance: Low

-----Original Message-----

From: lewaymire@gmail.com [mailto:lewaymire@gmail.com]
Sent: Friday, March 25, 2011 10:27 AM
To: Gibb, Ken
Subject: <web>Brooklane Heights Subdivision
Importance: Low

This is an inquiry e-mail via Contact Us form:

Linda Waymire
lewaymire@gmail.com
prefer phone contact: no

Dear Mr. Gibb,

I'm writing this email in response to the front page article and letter to the editor in today's Gazette Times regarding the approval and conditions required to develop the Brooklane Heights Subdivision.

Planning Commissions, Codes etc. are in place for a reason.

When a project requires 28 plus conditions, including excessive cut/fills well outside existing codes, the ethical integrity of the entire project is in question.

Please postpone any further approvals until existing codes are met.

Sincerely, Linda Waymire



[[Date Prev](#)][[Date Next](#)][[Thread Prev](#)][[Thread Next](#)][[Date Index](#)][[Thread Index](#)]

Brooklane Heights

- *To:* <ward1@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>
- *Subject:* Brooklane Heights
- *From:* "boucota" <boucota@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>
- *Date:* Thu, 24 Mar 2011 08:47:39 -0800
- *Cc:* <ward2@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward2@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward3@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward4@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward5@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward6@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward7@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward8@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward9@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <mayor@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <susanmorre@xxxxxxxxxxxx>, <ralphwaldron@xxxxxxxxxxxx>

To: Corvallis City Council

From: Arthur Boucot, 2850 SW Fairmont Drive

Subject: Potential problem of building houses on the steep slope on Brooklane Heights

1. As far as I can tell, as a practicing geologist, the Brooklane Heights site is underlain by saprolite rather than rock. I make this statement based on the presence of deep saprolite in the cuts made into the northern side of the hill on which Brooklane Heights is located.
2. Saprolite is deeply weathered, clayey material that "used to be" rock, but is not so any longer. Foundations dug into this clayey material on a steep slope will be subject to slumping over time due to the unstable nature of clayey substrate repeatedly wetted during our rainy season.
3. Building homes on this steep slope, basically underlain by clay that is seasonally thoroughly wetted during our rainy season, runs the risk that heavy structures like houses resting on a clayey substrate will be apt to slump, resulting in cracks in exterior and interior foundations and walls.
4. During the hearings on Brooklane Heights that I have attended I have not heard any discussion or seen any engineering report that addresses this negative possibility. Prospective hownowners could put down steel piles to bedrock to remediate this situation, but the noise and vibration of a pile driver is probably excessive. In any event, prospective homeowners should be made aware of these problems.

-
- Prev by Date: **Overcoming Obstacles to HIE Rollouts: A Guide for State and Local Executives**
 - Next by Date: **April 2011 "the City"**
 - Previous by thread: **Spam Digest for Wednesday, March 23, 2011**
 - Next by thread: **April 2011 "the City"**
 - Index(es):
 - **Date**
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Richardson, Robert

From: Laurie Childers [childers@peak.org]

Sent: Thursday, March 24, 2011 9:48 PM

To: Richardson, Robert

Subject: submitting written comments on Brooklane Heights development

My observations of the process regarding Brooklane Heights have given me an idea that might help the budget crisis at the same time it improves the functioning of the city government.

Rule # 1: Let's just make sure that anyone and everyone follows the rules.

I further propose Rule # 2: that any developer, and any homeowner, that submits a plan that asks for variances in the Land Use Development Code or the building code, pays all the costs involved in pursuit of those variances. That includes the hourly wages of the city staff, including development staff and city lawyers, and LUBA staff. The basic application fee probably covers basic costs of such staff, but variances are where it gets expensive for us taxpayers.

As it is, with Brooklane Heights as an example, with the original proposal requiring 28 variances, I see that it has cost the city, the state, and individual citizens enormous sums in the struggle to get the developer to submit plans that are aligned with the code. Taxpayers paid for the city lawyers, who had to defend the City Council's overturning of the unanimous NO vote of both the Planning Dept. and the Planning Commission. Taxpayers paid for LUBA to review the complaints. And the concerned citizens who have resisted the easy dismissal of the protections of the development code, have paid a third time, because we had to pay for our lawyer, and the city's lawyer, and the LUBA folks in Salem.

None of this would have been necessary if the developer had simply instructed his engineer to always follow the code in the plans, to submit the grading proposal on 2' contours, to have the both the hydrologic analysis and stormwater retention plan to compare (among many other faults). Why has it been otherwise? Why has the developer continued to submit incomplete information? Why is he making a last-minute plan to cut down the largest Oregon White Oak on the property, which directly ignores a previous condition of approval to protect the remaining oaks, especially the specimen trees?

The Planning staff and the Planning Commission all voted NO, unanimously, on this development. A city planner told me that this was the first time that has ever happened. *Yet City Council – having never visited the site, and without the technical comprehension of the city planning staff and*

commission, overturned this decision in 90 minutes.

There can only be one good reason for City Council to have to power to overturn Planning staff and Planning Commission decisions. That would be to *prevent* corruption, in a hypothetical case in which rules *had* been followed, but the Planning department denied the permit. City Council should be providing oversight to ensure rules are followed, *not* to bypass those rules. In other countries, we call what's happened here corruption.

Are City Councilors so hungry for more immediate tax base that they are willing to risk huge expenditures fixing problems in the future? In the case of Brooklane Heights, I believe this is pennywise and pound foolish. Drainage and erosion problems on such steep slopes have been seen in recent years in Eugene, Philomath, and Portland. It's a very expensive nightmare to have the extra runoff from new pavement uphill undermine your house's foundation. Houses have slid off their foundations. We already have a nightmarish erosion situation on Fairhaven Dr., ¼ mile away from this proposed development, that is the result of an excess cut in the steep hillslope. The lot has been abandoned and the trees at the edge of the new cliff there look mighty precarious. This is not good for our property values, nor our future tax base.

Corvallis is a desirable community. Our country is growing in population. We are not at risk of there being no new housing developments. Please, City Councilors, insist upon developers following the codes. Those codes exist for our long-term safety and quality of life. I understand that there might occasionally be good reason for variances, but in such cases the developer should be willing to pay the costs to review these variances.

Laurie Childers
2675 SW Fairmont Dr
Corvallis, OR 97333



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RE: Brooklane Heights

- To: "Mark O'Brien" <ward1@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, "boucota" <boucota@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, "Kathy Louie" <Kathy.Louie@xxxxxxxxxxxxxxxxxxxx>, "Ken Gibb" <ken.gibb@xxxxxxxxxxxxxxxxxxxx>
- Subject: RE: Brooklane Heights
- From: "Susan Morre" <susanmorre@xxxxxxxxxxxx>
- Date: Thu, 24 Mar 2011 11:55:08 -0700
- Cc: <ward2@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward3@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward4@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward5@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward6@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward7@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward8@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward9@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <mayor@xxxxxxxxxxxxxxxxxxxx>, <ralphwaldron@xxxxxxxxxxxx>

Dear Mayor, Council members, and City staff,

On behalf of several people who wish to attend the Brooklane Heights deliberations, especially those who were out of town during spring break when the hearing was held, I request that you schedule the deliberations at the evening City Council meeting on April 4, rather than at the noon meeting. It is very difficult for many people with jobs to attend the daytime meetings.

Please let me know if you will accommodate this request. Thank you very much for considering it.

Sincerely,
Susan Morre

-----Original Message-----

From: Mark O'Brien [mailto:ward1@xxxxxxxxxxxxxxxxxxxxxxxxxxxx]
 Sent: Thursday, March 24, 2011 10:56 AM
 To: boucota; Kathy Louie; Ken Gibb
 Cc: ward1@xxxxxxxxxxxxxxxxxxxxxxxxxxxx; ward2@xxxxxxxxxxxxxxxxxxxxxxxxxxxx;
 ward3@xxxxxxxxxxxxxxxxxxxxxxxxxxxx; ward4@xxxxxxxxxxxxxxxxxxxxxxxxxxxx;
 ward5@xxxxxxxxxxxxxxxxxxxxxxxxxxxx; ward6@xxxxxxxxxxxxxxxxxxxxxxxxxxxx;
 ward7@xxxxxxxxxxxxxxxxxxxxxxxxxxxx; ward8@xxxxxxxxxxxxxxxxxxxxxxxxxxxx;
 ward9@xxxxxxxxxxxxxxxxxxxxxxxxxxxx; mayor@xxxxxxxxxxxxxxxxxxxx;
 susanmorre@xxxxxxxxxxxx; ralphwaldron@xxxxxxxxxxxx
 Subject: Re: Brooklane Heights

Ken, Kathy,

FYI

To: Corvallis City Council

From: Arthur Boucot, 2850 SW Fairmont Drive

Subject: Potential problem of building houses on the steep slope on Brooklane Heights

i. As far as I can tell, as a practicing geologist, the Brooklane Heights

site is underlain by saprolite rather than rock. I make this statement based on the presence of deep saprolite in the cuts made into the northern side of the hill on which Brooklane Heights is located.

2. Saprolite is deeply weathered, clayey material that "used to be" rock, but is not so any longer. Foundations dug into this clayey material on a steep slope will be subject to slumping over time due to the unstable nature of clayey substrate repeatedly wetted during our rainy season.

3. Building homes on this steep slope, basically underlain by clay that is seasonally thoroughly wetted during our rainy season, runs the risk that heavy structures like houses resting on a clayey substrate will be apt to slump, resulting in cracks in exterior and interior foundations and walls.

4. During the hearings on Brooklane Heights that I have attended I have not heard any discussion or seen any engineering report that addresses this negative possibility. Prospective homeowners could put down steel piles to bedrock to remediate this situation, but the noise and vibration of a pile driver is probably excessive. In any event, prospective homeowners should be made aware of these problems.

• **References:**

- **Re: Brooklane Heights**
 - *From:* Mark O'Brien
- Prev by Date: **[SuperUpdate] Superintendent's Update**
- Next by Date: **<web>Concerns on 2nd Chance\at Life in Community**
- Previous by thread: **Re: Brooklane Heights**
- Next by thread: **Brooklane Heights**
- Index(es):
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Richardson, Robert

From: Susan Morre [susanmorre@comcast.net]
Sent: Thursday, March 24, 2011 12:35 PM
To: Mayor; Ward 1; Ward 2; Ward 3; Ward 4; Ward 5; Ward 6; Ward 7; Ward 8; Ward 9; Gibb, Ken; Richardson, Robert
Subject: Brooklane Heights
Attachments: Jim Howland BH Testimony.pdf; Letter to Ed Geological concerns.htm
Mayor, Council, and City Staff,

I have attached two documents from people with expertise in engineering and geosciences which have been previously submitted as part of the Brooklane Heights record, and which apply to your current consideration of the remaining issues – compliance with CCP 4.6.7 and 4.11.12, impacts of stormwater design and large cuts and fills on slope stability and potential damage to existing and future homes. One letter is from Jim Howland, internationally respected engineer and one of the founders of CH2M Hill. The other one is from Geosciences Professor Bob Yeats and was sent to the G-T and previously included in the record. I am copying the content into the body of this email as well, because neither of their expressed concerns have been addressed and the issues are still critical. I believe that the City may be held liable for future damages if these expressed concerns are ignored.

Please consider these in your deliberations.
Sincerely,
Susan Morre

August 23, 2007 Letters to the Editor, G-T
Ensure safe slopes at subdivision

Corvallis' city staff was correct in advising the City Council against quick approval of the 45-lot Brooklane Heights subdivision. My objection stems from the proposed cuts and fills up to 14-feet high, almost twice the amount allowed by city code. This could result in slope failures, severely damaging houses built there.

The solution, following the International Building Code adopted by the state of Oregon, is to require the developer to submit reports by a licensed geologist and licensed geotechnical engineer attesting to the stability of the cuts and fills. In addition — and this is critical — the city should engage an independent engineering geologist and geotechnical engineer to review the proposed development and submit their own reports to city staff.

This review should be paid for by the developer. This is standard practice elsewhere, and it should be standard in Corvallis.

The disagreement about the 10-foot contour lines on the developer's proposal suggests to me that the developer has not done his homework in proposing a safe subdivision. Kudos to the staff members who picked up on this problem.

Bob Yeats
Corvallis
Emeritus Professor of Geosciences
Oregon State University

Letter from Jim Howland:

August 10, 2007

Mr. Bob Richardson, Associate Planner
City of Corvallis, Planning Division
P.O. Box 1083
Corvallis, OR 97339

Brooklane Heights Subdivision

Dear Mr. Richardson:

We own the two lots just north of the northwest corner of the proposed Brooklane Heights Subdivision. From the map of the currently proposed grading plan, furnished to us by Steve Schaberg, it appears that a 20 foot cut within 30 feet of our south property line would be allowed. It is our opinion that allowing such a cut could destabilize the hillside and cause extensive damage to our and other property.

Therefore, we ask that any cut in this area be eliminated or limited to the more usual 10 feet or less.

This is sent by both e-mail and US mail in an effort to meet your deadline for distribution. Thank you for your consideration of this request.

Jim Howland
2575 SW Whiteside Dr.
Corvallis, OR 97333
753- 3691

Howland
2575 S.W. Whiteside Drive
Corvallis, OR 97333

RECEIVED

AUG 14 2007

August 10, 2007

Community Development
Planning Division

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City of Corvallis, Planning Division
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Corvallis, OR 97333
753- 3691

LUBA 2007-200

Page -249-

North Riverfront Park. We parked in front of the small boulders which line the embankment so we could watch the river show. We brought a snack with us. "Oh, isn't this nice," my daughter-in-law said. I told her that we feel fortunate our city left this small area in its natural state. A pair of ducks glided by on the river trailed by their little ducklings. My son exclaimed, "Look at that bird circling over the river." I explained that it was one of many osprey that return here each spring. We watched a blue heron skim over the river and perch by the far bank so it could wait for a tasty morsel. "What seems so amazing," my son reflected, "is that we are so close to town, yet here is a remote and peaceful area with beautiful trees and natural growth." My family left with many thanks for a locket of time well enjoyed.

My family reflects the feelings of so many others who enjoy the naturalness and exclusivity of this small park area. This park has long been a haven for many residents desirous of taking a few moments break from daily concerns and life's pressures. It's a natural refuge: an escape from the buildings, concrete and pavement of town.

Marguerite White

Corvallis

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Bob Yeats

Corvallis

Emeritus professor

of geosciences

Oregon State University

Oft-repeated Iraq myths still untrue

Wouldn't it be nice if the far right would quit trotting out the same old untruths about 9/11?

No, al-Qaida was not in Iraq before we blew the country open and let them in. Logic would tell you that a dictator doesn't want a problem in his country.

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Brooklane Heights

- *To:* <mayor@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, "Mark O'Brien"
<ward1@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward2@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>,
<ward3@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward4@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>,
<ward5@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward6@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>,
<ward7@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>, <ward8@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>,
<ward9@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>
- *Subject:* Brooklane Heights
- *From:* "Susan Morre" <susanmorre@xxxxxxxxxxxx>
- *Date:* Thu, 24 Mar 2011 12:37:51 -0700

Dear Mayor, Council, and City staff,

Here are two excerpts from the City Staff Report to the Council at the appeal of the unanimous Planning Commission decision to deny the Brooklane Heights project in 2007. Staff recommended that the Council uphold the Planning Commission's decision to deny the Brooklane Heights project for several reasons, some of which have still not been resolved. In particular, after 3 ½ years, the applicant has still failed to supply a grading plan for all the lots that are not mass-graded. Now you have only been given the stormwater design, not the lot grading plan which is also required. Even this stormwater design is incomplete because the applicant mentions installing 12-inch diameter pipes at the back of lots to convey lot runoff to these detention vaults and pipes – but they have not supplied the lot grading plan that includes locations of these pipes. Once again you are being asked to approve part of this proposed development without being provided complete information. Once the last City Council overturned the Planning Commission's decision, Staff has been required to defend the Council's decision, even though these key issues are still unresolved.

For that reason, I ask you to postpone making any decision on the stormwater design until you have the grading plan for the entire site and specifics about these 12-inch pipe locations.

Quoting Ken Gibb in the 2007 Staff Report, which is attached to this email:

Page 20: The other issue remaining which was one that had prompted denial of the

application is the grading plan for the site. The appellant revised plans have reduced both the extent and the depth of the cuts and fills in excess of 8 feet when compared to the original applicant preferred grading plan. However from the information provided staff cannot determine if the lots that remain ungraded could be developed to the cut and fill standards in the LDC. In addition staff do not believe it is appropriate to condition a project in a manner that would result in a need to obtain a Planned Development Modification for the condition to be met although the appellant may be willing to propose such a condition.

From the information provided staff were unable to find that the appellant had met the burden of proof regarding Appeal Issues 1 and 2 phasing and grading. Consequently staff recommend that the Council uphold the Planning Commission decision denying the Conceptual and Detailed Development Plans for the subject site.

Page 22: Staff does not believe the proposed Conditions of Approval as reflected in the revised

grading plan satisfy the hillside development criteria in Comprehensive Plan Policy 4.6.7. Further insufficient detail regarding the extent of grading that will be necessary on the non mass graded lots and insufficient detail regarding building design on all lots lead Staff to believe the Conceptual and Detailed Development Plan proposal does not comply with applicable hillside development standards. This also results in uncertainty regarding the compatibility of future development including impacts to surrounding properties views. For these reasons Staff recommend that the City Council deny the appeal and the proposed Conceptual and Detailed Development Plans Because the proposed Tentative Subdivision Plat is predicated on approval of the proposed Conceptual and Detailed Development Plan. It is also recommended that the City Council deny the proposed Tentative Subdivision Plat.

The applicant addressed the more minor issues (shortened a 630 foot cul de sac by 30 feet,

widened a pathway from 5 feet to 8 feet, and squeezed three more lots into the center of the area and limited the square footage of some of the homes). However, they have not addressed the primary issues: lack of compliance with CCP 4.6.7 hillside development standards (saying you comply does not mean that you do; meeting parts and ignoring the rest is insufficient) and lack of individual lot grading and development plans to assess if they will comply with the codes and regulations.

In addition, statewide standards call any slopes over 15% "undevelopable", so that applies to most of this slope. That is why they want to do such mass grading and excessive cutting and filling.

Susan

Attachment: Brooklane_CCStaffRpt.pdf

Description: Adobe PDF document

-
- Prev by Date: **Brooklane Heights**
 - Next by Date: **[SPAM] importance of upland prairie and Oregon oak habitats**
 - Previous by thread: **Brooklane Heights**
 - Next by thread: **Re: Brooklane Heights**
 - Index(es):
 - **Date**
 - **Thread**

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MEMORANDUM

TO: Mayor and City Council

FROM: Ken Gibb, Community Development Director 

DATE: August 10, 2007

RE: Brooklane Heights Planned Development (PLD06-00018, SUB06-00006)

I. ISSUE

On April 10, 2007, the appellant submitted a complete application seeking approval of a Conceptual and Detailed Development Plan and a Tentative Subdivision Plat to create a 42-lot subdivision on a 25.88 acre subject site generally located north of Brooklane Drive and east of Fairmont Drive. As part of the Planned Development request the appellant is seeking to vary from a number of Land Development Code standards related to the location and design of streets and the provision of drainageway easements.

On June 6, 2007, the Planning Commission held a duly advertised public hearing on the request. On June 20, 2007, the Planning Commission deliberated and unanimously voted to deny the appellant's request. On July 5, 2007, the appellant appealed the Planning Commission's decision (**Attachment I**). A City Council public hearing has been scheduled for August 20, 2007, to consider the appeal of the Planning Commission's decision to deny the proposed Conceptual and Detailed Development Plan and Tentative Subdivision Plat.

II. BACKGROUND and DISCUSSION

The 25.88 acre site is located northwest of Brooklane Drive and northeast of Agate Avenue, east of Fairmont Drive, and south of Whiteside Drive. The site consists of one parcel which is identified on Benton County Assessor's Map 12-5-01 C as Tax Lot 1000.

The subject site is vacant and has not been developed except for a short gravel road, constructed without permits, that is located near the south side of the site and connects to Brooklane Drive. The site is surrounded by land designated by the Comprehensive Plan as Low Density Residential (**Attachments IX.205**). All abutting properties are zoned RS-3.5 Low Density Residential, except for an undeveloped parcel east of Brooklane Drive and near the northeast portion of the site that is zoned RS-6 Low Density Residential (**IX. 206**).

Adjacent lots to the west of the site are generally a quarter acre to a third of an acre in size. Lots to the north are larger, ranging from approximately 1.25 acres to over 2.5 acres. The lots southeast of the site were developed as part of the 1994 Brooklane Park Estates Conceptual and Detailed Development Plan approval. The adjacent developed lots in Brooklane Park Estates are approximately 0.6 acres each. The area north of the subject site is currently referred to as the Oakmont Addition site. This 10.72 acre site was recently logged, and is currently vacant. The owner of this property recently received approval of a Tentative Subdivision Plat for a 24 lot subdivision, which is generally shown in **Attachment IX.84-88**. The Oakmont Addition site was zoned RS-3.5 Low Density Residential at the time the application was submitted, which was prior to the implementation of the 2006 LDC. The RS-3.5 zone was changed to RS-5 Low Density Residential on December 31, 2006, when the 2006 LDC took effect. Similarly, the subject site, which was zoned PD(RS-3.5) at the time of application was rezoned to PD(RS-5) with the implementation of the 2006 LDC.

Proposal

The appellant is seeking approval of a Conceptual and Detailed Development Plan and a Tentative Subdivision Plat that would allow the phased creation of 42 lots and 4 common tracts within the 25.88 acre site. Phase I involves the development and dedication of Tract D to the City. Tract D would be developed with a street stub to allow a street connection to the adjacent site, referred to as Oakmont Addition, which is currently vacant but is proposed to be developed as a 24-lot subdivision. The proposed street stub in Phase I of the Brooklane Heights development is necessary to provide access to the Oakmont Addition property and to provide secondary access for the Brooklane Heights project (**Attachments IX. 215, 224**). Without the secondary access, Brooklane Heights would be limited, per LDC 4.0.70(c)(3), to developing a maximum of 18 lots on a street not to exceed 600 feet, unless a variation to this standard was approved through Planned Development approval. Additionally, development of the Oakmont Addition site is contingent upon approval of the Brooklane Heights Phase I street stub. Without this connection there would be no usable public street access to the Oakmont Addition site.

Phase II contains all 42 proposed lots and the proposed new streets that would serve them. The proposed street system includes one local street named Wolverine Drive that would begin at Brooklane Drive and run north, then east along the north of the site. Wolverine Drive is proposed to continue through the adjacent Oakmont Addition site. Two cul-de-sacs, Badger Place and Buckeye Place, are proposed on the east side of Wolverine Drive. Badger Place would serve 13 lots and is generally located along the south portion of the site. Buckeye Place would serve 8 lots and is more centrally located on the site. Phase II also contains two storm water detention ponds, and Tracts A - C. The tracts' boundaries were drawn to incorporate the majority of tree covered areas on the site, which would be protected as common open space areas. As proposed, 406 out of 454 significant trees on the site would be preserved. However, as discussed in the Staff Report to the Planning Commission, the submitted arborist report recommends removal of 5 additional trees, and 5 other trees would likely need to be removed to accommodate a drainage swale. A

pedestrian walkway is proposed to connect Badger Place to Wolverine Drive (**Attachment IX.213**).

All tracts combined account for 10.98 acres and the appellant is proposing to form a homeowners association to manage and maintain the common open space tracts. The remaining 14.9 acres are proposed to be developed with 42 lots. All proposed lots are planned for the area identified as Phase II. Based on the 14.9 acres proposed for development, the net density of the development is 2.8 units per acre.

The existing topography for the site would be modified through the proposal. As presented to the Planning Commission, most of the area within tracts will not be altered, and the area proposed for development would be mass graded to create flat building pads for each lot (**Attachment IX. 217**). As shown in **Attachment IX. 223 - Cross Section C**, the proposed maximum cut is 21 feet and the proposed maximum fill is 21 feet. The appellant has since proposed conditions of approval that modify the grading plan reviewed by the Planning Commission. Analysis of the proposed condition of approval and supporting documents occurs later in this Memorandum.

As proposed to the Planning Commission, various Land Development Code standards related to street design and drainageway provisions are proposed to be modified through the Conceptual and Detailed Development Plan, as shown in the Table below.

| Proposed Deviations from LDC Standards | | |
|---|---|--|
| Item | Code Standard | Proposed Standard |
| Local Street | 28 feet for travel lanes, 5 foot sidewalk, 6 foot park strip. | 20 feet for travel lanes in select locations. |
| Neighborhood Collector Street (Brooklane Drive) | 5 foot sidewalk and 12 foot park strip. | 5 foot curbside sidewalk, and no park strip. |
| Multi-Use Trail | 8 foot minimum width | 5 foot minimum width |
| Cul-de-sac | Maximum length of 600 feet. | Maximum length of 630 feet. |
| Drainageway Easement | WTOB - $1.5x + 5$ feet X = Width of channel from top of bank to top of bank as determined by the City Engineer, or 30 ft, whichever is less. | No easement. Proposes to convey stormwater through storm drain line. |
| Construction of local streets in drainageway | Street construction, grading, fill, prohibited. | Allow street construction in an identified drainageways. |

To respond to the concerns raised by the Planning Commission regarding the length of Badger Place cul-de-sac and the width of the Multi-Use trail, the appellant has proposed conditions of approval that eliminate the need to vary from LDC standards. This will be discussed later in this Memorandum.

Planning Commission Action

Specific criteria and policies that apply to the proposed Conceptual and Detailed Development Plan and Tentative Subdivision Plat were addressed in the May 25, 2007, Staff Report to the Planning Commission (**Attachment IX**). Specifically, pages 7-64 of the May 25, 2007, Staff Report address compliance with LDC criteria applicable to the proposed Conceptual and Detailed Development plan, and pages 66-70 address compliance with LDC criteria regarding the proposed Tentative Subdivision Plat (**Attachment IX**).

As reflected in the May 25, 2007, Staff Report to the Planning Commission, and minutes from the June 6 and June 20, 2007, Planning Commission meetings, City Staff recommended that the Planning Commission deny the appellant's requests. The Planning Commission concurred with Staff's recommendation. The Planning Commission unanimously denied the application based on findings in the May 25, 2007, Staff Report to the Planning Commission and findings in the June 6 and June 20, 2007, Planning Commission meetings supporting the decision to deny the application.

The Planning Commission and Staff Report to the Planning Commission articulated a number of reasons for denying the application, including:

- Failure to comply with Comprehensive Plan policies related to hillside development, and in particular, Policy 4.6.7;
- Failure to comply with Comprehensive Plan policy 9.5.13, which requires a certain percentage of minimum sized lots and a variety of housing types and sizes.
- Inconsistencies between the proposed design of storm water detention ponds and the design recommended in the appellant's geotechnical report;
- Failure to meet LDC section 4.0.70.c.3, which limits the length of cul-de-sacs to 600 feet;
- Failure to comply with LDC section 4.0.50, which requires an 8 foot wide bicycle/pedestrian path.
- Failure to provide typical elevations sufficient to indicate the architectural intent and character of the proposed development per LDC section 2.5.50.a, thereby limiting the ability of the Planning Commission to evaluate compatibility impacts, especially those related to hillside views and hillside development.

Each of the listed reasons for denying the appellant's proposal was raised in the appeal letter and will be evaluated in the following section.

Appeal Issues

Land Development Code section 2.19.30.02(b) - Hearings Authority states that appeals of Planning Commission 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), and the Council's decision is not limited to the stated grounds for appeal. Under the terms of LDC 2.19.30.01(c), the Council is charged with reviewing the application for consistency with the relevant criteria, and the Council is not charged with reviewing the decision of the Planning Commission for errors.

The Conceptual and Detailed Development Plan and Tentative Subdivision Plat requests were analyzed in detail in the May 25, 2007, Staff Report to the Planning Commission (**Attachment IX**). In reaching a decision based on applicable review criteria, the City Council is encouraged to consider the May 25, 2007, Staff Report to the Planning Commission, which evaluated the proposal against applicable review criteria. The City Council is also encouraged to consider Planning Commission findings regarding the proposals which are reflected in the minutes of the June 20, 2007, Planning Commission meeting when the Planning Commission deliberated on the request.

The May 25, 2007, Staff Report to the Planning Commission and Planning Commission deliberations are attached to this memorandum per LDC section 2.19.30.01(c) which requires the record of the Planning Commission decision to be included as part of the staff report to the City Council. The balance of this memorandum will focus on the appeal issues. This report will analyze the appeal issues (**Attachment I**) and the appellant's proposed conditions of approval and will make findings and recommendations to the City Council.

Appeal Issue 1 - Phase I Improvements

The appeal letter states that,

The Planning Commission erred in denying the Phase I improvements, considering this phase of the project was entirely in compliance with the City's approval criteria.

Typically in multi-phased development plans, all phases are approved at one time, and development will occur in phases over varying periods of time. The area referred to as Phase I (Tract D on the Revised Tentative Subdivision Plat) is part of a single, larger Conceptual and Detailed Development Plan proposed by the appellant. This triangular shaped area contains a 30 foot long street segment that would connect to an approved but not yet constructed street in the recently approved Oakmont Addition subdivision. The street is proposed to be constructed to City local street standards. As shown in the Revised Grading and Tree Preservation Plan, Phase I (Tract D) contains approximately 8 LDC

defined, significant trees. The construction of the street segment is not expected to adversely impact any significant trees or other natural features.

The adjacent Oakmont Addition site is dependent on a street connection through the Brooklane Heights property for both primary and secondary access. Without public access via a standard city street, Oakmont Addition lots may not be developed. If only one access point is achieved, through the Phase I of the Brooklane Heights proposal, up to 18 homes on a 600 foot street segment may be constructed on the Oakmont Addition site.

During deliberations on the appellant's requests, the Planning Commission considered the possibility of approving only Phase I of the proposal to provide access to the adjacent Oakmont Addition. The Planning Commission did not approve Phase I of the proposal. In reaching this decision, the Planning Commission noted that the application did not specifically ask for separate approvals for Phase I and Phase II of the proposal. The Planning Commission noted that because Phase I was not proposed as a distinct and separate part of the application, the staff report did not analyze it as such. Rather, Phase I and Phase II were proposed and evaluated as part of a unified Conceptual and Detailed Development Plan. Likewise, the Planning Commission noted that the public was not given notice that the appellant was requesting the proposal to be approved in separate phases. The Planning Commission also noted that the only clear reason given for approving Phase I as an independent component of the project was to provide street access to an adjacent property.

The Planning Commission found that because the application did not request separate approvals for Phases I and II, and because the Public Notice did not inform citizens that two separate approvals were sought, it was procedurally incorrect to separate Phase I from the entirety of the application and act only on that portion of the proposal. The Planning Commission also found that the proposal as a whole failed to satisfy applicable LDC criteria and Comprehensive Plan policies, and that there are no LDC criteria or Comprehensive Plan policies that would support a decision to approve an application for the purposes of accommodating another application. In other words, approving the proposal for Phase I simply to provide public street access to the Oakmont Addition site was not a valid reason to approve the application; therefore, it was also inappropriate to divorce Phase I from the whole of the proposed Conceptual and Detailed Development Plan. One other issue regarding approval of Phase I as a phase of the development is that it requires approval of at least the Conceptual Development Plan for the entire site. The Planning Commission was unwilling to do so.

Appeal Issue 2 - Grading

One of the most important reasons Staff recommended the Planning Commission deny the appellant's application was because the application did not comply with Comprehensive Plan policies regarding hillside development. A full analysis of hillside development, with particular

attention paid to grading plans proposed by the appellant, is found in the May 25, 2007, Staff Report to the Planning Commission (**Attachment IX. 26-36**).

The Land Development Code in effect at the time the application was submitted does not contain specific provisions regarding hillside development. However, the Comprehensive Plan does contain several policies that are intended to guide hillside development and tree preservation. Comprehensive Plan Policy 51.a states that these policies “shall be used as part of the appropriate review criteria for Planned Development.” Comprehensive Plan policies identified by staff as being relevant to hillside development and tree preservation are listed below.

Comprehensive Plan Policies

- 4.2.2 Natural features and areas determined to be significant shall be preserved, or have their losses mitigated, and/or reclaimed. The City may use conditions placed upon development of such lands, private nonprofit efforts, and City, State, and Federal government programs to achieve this objective.**
- 4.6.1 The City shall update the current hillside inventory. Until that time the City shall utilize the Open Space - Hillside Report (1983) and the Open Space Plan - Corvallis Planning Area (1979) to identify areas of significance during the review of annexations and developments.**
- 4.6.2 Development on hillsides shall not endanger life and property nor land and aquatic resources determined to be environmentally significant.**
- 4.6.3 Tree-covered hillsides within the City Limits shall retain a tree-covered appearance prior to development review. Selective logging could be permitted with a City-approved plan that assures hillsides within the City Limits retain a tree-covered appearance. On these hillsides, clear-cuts and other significant tree removal should not be permitted prior to development.**
- 4.6.5 On tree-covered hillsides, development shall be designed to preserve as many trees as possible and tree removal shall be consistent with the approved development plan.**
- 4.6.6 On tree-covered hills, the design of dwellings and their placement shall be planned to retain a sufficient number of trees to preserve a green, tree-covered hillside appearance. If a proposed development pattern would result in the loss of a tree-covered hillside appearance, assuming the development plan has been designed to minimize the loss of existing trees to the extent that it is safe and practicable, the development may proceed, provided the following provisions are met: 1) the loss of trees is further minimized by development techniques such as clustering; and 2) a sufficient number of new trees are planted to recreate (at maturity) a green, tree-covered hillside appearance.**
- 4.6.7 In areas where development is permitted, standards in the Land Development Code for hillside areas will achieve the following:**
 - A. Plan development to fit the topography, soil, geology, and hydrology of hillsides and to ensure hillside stability both during and after development.**

- B. Preserve the most visually significant slopes and ridgelines in their natural state by utilizing techniques such as cluster development and reduced densities.
- C. Preserve significant natural features such as tree groves, woodlands, the tree-meadow interface, and specimen trees.
- D. Align the built surface infrastructure, such as roads and waterways, with the natural contours of terrain and minimize cutting and filling in developments.
- E. Minimize soil disturbances and the removal of native vegetation and avoid these activities during winter months unless impacts can be mitigated.
- F. Design developments and utilize construction techniques that minimize erosion and surface water runoff.
- G. Demonstrate a concern for the view of the hills as well as the view from the hills.
- H. Provide landscaping that enhances the identified open space resources.
- I. Design developments that consider landscaping management that will minimize the threat of fire on improved property spreading to wildland habitat.

4.6.9 Where development of hillsides occurs, removal of vegetation will be minimized to control erosion. Vegetation disturbed during development shall be replaced or enhanced through landscaping.

51.5.a Discretionary Land Use Decisions. Policies from this Comprehensive Plan shall be used in evaluating Comprehensive Plan Amendments, Zone Changes and Annexation requests filed after the date the City Recorder has received written acknowledgment of the revised Comprehensive Plan by the Land Conservation and Development Commission. Where the current Land Development Code refers to Comprehensive Plan policies as review criteria for land use applications, whether by general reference to the Comprehensive Plan or by a reference to a specific policy, the appropriate hearing authority shall use applicable policies from this Comprehensive Plan. In the case of a specific reference to a policy within an earlier Comprehensive Plan, the appropriate hearing authority shall determine what policies from this Comprehensive Plan address the same policy issues as the referenced policy from an earlier Comprehensive Plan. Specifically, policies from this Comprehensive Plan shall be used as part of the appropriate review criteria for Planned Development, Conditional Development, Lot Development Option, Extension of Service, Appeals, and Vacation applications. Once the Land Development Code is revised to implement this Comprehensive Plan and is acknowledged by the Land Conservation and Development Commission and implemented via a final order by the City Council, this policy will no longer be in effect.

The above Comprehensive Plan policies emphasize the protection of significant trees and tree covered hillsides and views to and from hills. These policies also direct development to fit the topography of hillsides by minimizing soil disturbances and cuts and fills. Analysis in the Staff Report to the Planning Commission found that the proposal complied with the Comprehensive Plan policies relative to the protection of tree covered hillsides and the preservation of significant trees (**Attachment IX.26-36**). Analysis in the Staff Report to the Planning Commission also found that the proposal did not comply with Comprehensive Plan

policies designed to minimize disturbances to soil and reduce cuts and fills on hillsides **(Attachment IX.26-36)**.

Comprehensive Plan Policy 4.6.7 sections (A), (D), and (E) direct development to fit the topography, geology, and hydrology of hillsides; to minimize cuts and fills; and to minimize soil disturbances. Previous land use decisions have determined that one way to demonstrate compliance with Policy 4.6.7 (A), (D), and (E) is to limit cuts and fills to a maximum of 8 feet. Under this paradigm, cuts and fills that exceed 8 feet may be permitted, and may be found to comply with Policy 4.6.7 if the appellant demonstrates that physical characteristics of the site warrant greater cuts and fills, and would result in benefits that would off-set negative impacts of increased hillside disturbance **(Attachment IX.26-36)**.

The appellant proposed two grading plans, which were considered by the Planning Commission. The plans were referred to in the Staff Report to the Planning Commission as the applicant's Preferred Plan and the applicant's Alternative Plan. In summary, the Preferred plan would mass grade, or "pad-out" each lot, so that each lot had a flat area large enough to construct buildings without the need to design for stepped-foundations or daylight basements, for example. The Alternative plan proposes a grading plan whereby each lot would be individually graded, and would be more respectful of the existing contours. The Alternative plan also includes 60 lots, compared to the 42 in the Preferred plan, and would result in the removal of the majority of significant trees in Tract A of the Preferred plan **(Attachment IX.26-36)**.

The Planning Commission and Staff found that neither grading plan complied with applicable Comprehensive Plan policies. The Preferred grading plan protects nearly 90% of significant trees on the site through the creation of open space tracts, therefore, this plan complies with policies aimed at protecting tree covered hillsides and significant trees. However, this Plan also creates multiple cuts and fills greater than 8 feet, and would result in some cuts and fill of approximately 20 feet. Given the size of the cuts and fills in the Preferred grading plan, and the lack of off-setting benefits to mitigate the negative impacts of these soil disturbances, Staff and the Planning Commission found the Preferred grading plan did not comply with Comprehensive Plan Policy 4.6.7 sections (A), (D), and (E) **(Attachment IX.26-36)**.

The alternative grading plan is more respectful of the topography, and minimizes cuts and fills compared to the Preferred grading plan, though multiple cuts and fills would exceed 8 feet and maximum cuts and fills are 12 feet. In addition, this plan does not comply with policies 4.6.5, 4.6.6 and 4.6.7 (C) and (E) relative to tree protection. The Alternative grading plan is not discussed in the application narrative relative to its ability to satisfy applicable LDC criteria, and no other site plans, such as the tentative plat, reflect the Alternative grading plan design. Therefore, Staff and the Planning Commission found the Alternative grading plan did not comply with applicable Comprehensive Plan policies **(Attachment IX.26-36)**.

Because the Planning Commission denied the appellant's proposal, in large part due to its failure to comply with Comprehensive Plan policies regarding hillside development, the appellant has presented a third grading plan for the City Council to consider (**Attachment I**). The following are the main points made by the appellant in support of the revised grading plan:

- Grading activities would be limited to areas necessary for construction of the roads and for lots that are lower than the roadway.
- 95% of the site would have cuts and fills of less than 10 feet
- Gravity fed sewer and storm drain lines are located in the street and not within separate rear yard easements.
- 8 additional trees would be preserved compared to the applicant's original Preferred plan.
- Grading would lower lots 7 and 8 preserving views for neighbors to the west.

The appellant also included a table comparing the revised grading plan to the previous applicant Preferred/Proposed plan, and to the grading plan approved for Meadowridge at Timberhill (CPA00-00012, PLD00-00030) (**Attachment I**). This chart indicates that maximum cuts of 14-feet and the maximum fills of 13-feet proposed in the revised grading plan are less than or equal to cuts and fills in the earlier Preferred/Proposed plan and approved Meadowridge plan.

As stated earlier in this Memorandum, the applicant's Preferred/Proposed grading plan reviewed by the Planning Commission was found to comply with Comprehensive Plan policies 4.2.2, 4.6.1, 4.6.3, 4.6.5, and elements of 4.6.7 relative to the protection of significant trees and tree covered hills. The revised plan has a very similar lotting pattern, and would protect trees and tree groves through the use of open space tracts as originally proposed in the Preferred plan.

As reflected in the minutes of the June 20, 2007, Planning Commission deliberations, the Planning Commission concurred with the Staff analysis that the Preferred/Proposed grading plan did not comply with Comprehensive Plan policies that direct development to minimize cuts and fills, specifically Policy 4.6.7, which directs development to fit the topography, soil, geology of hillsides, align the built surface with natural contours and minimize cuts and fills. As noted previously in this Memorandum, previous land use decisions have determined that one way to demonstrate compliance with Policy 4.6.7 (A), (D), and (E) is to limit cuts and fills to a maximum of 8 feet. Cuts and fills that exceed 8 feet may be permitted, and may be found to comply with Policy 4.6.7, if the applicant demonstrates that physical characteristics of the site warrant greater cuts and fills and would result in benefits that would off-set negative impacts of increased hillside disturbance.

The appellant's July 5, 2007, appeal letter states that 95% of the site will have cuts and fills less than 10-feet. This is illustrated in the revised grading plan (**Attachment I.8**). The revised plan does not show where cuts and fills will be greater than 8-feet, or indicate how many

cuts and fills will be greater than 8-feet. Staff analysis of the revised grading plan found that approximately 16 of the 45 lots, or just over a third of lots where grading is proposed in the revised plan, would require cuts or fills greater than 8-feet. This includes lots 15 and 16, which would require more than 10 feet of fill, though the revised plan indicates it would require less than 10 feet. Information provided by the appellant in **Attachment I.12**, states that the maximum cut in the revised plan is 14 feet, and the maximum fill is 13 feet. It is difficult to more precisely know the range of cuts and fills because the appellant's plans use 10-foot contours rather than 2-foot contours.

The appeal letter states that 20 lots will be graded or partially graded to create buildable lots, and 25 lots will be left undisturbed. Most lots to be graded are located on the downhill side of the proposed streets, except for lots 7-10, which will have cuts between 10 and 20 feet along the upper end of the conceptual building footprints, and cuts of 0-10 feet on other areas of those lots. The proposed streets and the 20 noted lots would be mass graded at one time.

The 25 lots not disturbed by grading, or only partially disturbed where the lots meet the proposed streets, would be graded later on an individual basis as each lot is developed for a custom home. Grading on these lots would be required to comply with standards in the 2006 LDC, unless other standards were applied through approval of a Conceptual and Detailed Development plan. The appellant is in no way obligated to demonstrate compliance with standards in the 2006 LDC because those standards were not in effect when the application was submitted. Yet, the appellant has not provided new standards, or set parameters for lot grading on the 25 lots not proposed for mass grading, sufficient to demonstrate impacts to the hillside. Therefore, it is not possible to know if grading on these lots would require cuts and fills greater than 8 feet, the circumstances that would necessitate 8 foot cuts or fills, or how much of each lot would need to be graded to develop each lot.

The appeal letter addendum, dated July 16, 2007, compares the proposed development to the Meadowridge at Timberhill development, which was approved to create cuts and fills greater than 8 feet. The Planning Commission disposition and Conditions of Approval for Meadowridge are included with this Memorandum as **Attachments VI**. An excerpt of the Staff Report to the Planning Commission regarding the Meadowridge proposal is included as **Attachment VII**. These documents are included to demonstrate the past use of an 8 foot cut and fill guideline for determining compliance with Comprehensive Plan policies directing development to minimize impacts to hillsides. These documents are also included to illustrate some previously approved (at least in large part) mechanisms, proposed by applicants to mitigate negative impacts caused by exceeding 8 foot cuts and fills. Mechanisms include stepped or tiered building foundations, retaining walls not to exceed 8 feet in height (instead of wide cut/fill areas), and garages at least half "buried" into hillsides.

These and other construction techniques could be appropriate for the Brooklane Heights site to meet hillside review criteria where cuts and fills exceed 8 feet. No such techniques were proposed. The Planning Commission expressed their discomfort with this lack of detail in the

proposal by noting that the appellant did not provide the location and floor area for proposed structures, including maximum heights, building types, and elevations of structures sufficient to indicate the architectural intent and character of the proposed development per the application requirements in LDC section 2.5.50.a (**Attachment III**). Staff believe that in cases where development is not proposed to vary from LDC standards it may not always be necessary to provide elevations or footprints as long as development could comply with current development standards. However, in this case, where the appellant is proposing to exceed 8 foot cuts and fills on 16 lots, and the extent of necessary cuts and fills on remaining lots is not known, it is important to provide specific techniques or designs to demonstrate how development will respect the topography of the hillside and minimize impacts to it.

The appellant has not proposed such techniques or designs and it is clear that cuts and fills will exceed 8 feet on one third of the lots and the street. Also, the degree to which lots not mass graded would need to be graded to later be developed is unknown. It is possible that lots proposed for individual grading may not comply with applicable hillside development standards of the 2006 LDC, or with other building design standards in place to ensure compatibility with surrounding uses. For these reasons, Staff does not believe the appellant's revised grading plan complies with applicable Comprehensive Plan policies regarding hillside development, and Staff recommend that the City Council deny the appeal.

Appeal Issue 3 - Consistency with the Geotechnical Report

Pages 61-63 of **Attachment IX** address Storm Drainage issues on the subject site. As shown in **Attachment IX. 221**, the proposed Utility Plan, two storm water detention ponds are proposed on either side of the Badger Place cul-de-sac.

The May 25, 2007, Staff Report to the Planning Commission states,

The proposed location of the water detention facilities is in one of the site's natural drainageways. The proposed construction of the ponds specifies 2:1 side slopes. The upper pond is proposed to be restrained by the road fill for Badger Place, and an additional berm would be placed on the north side of the road fill to allow the peak detention water surface to be above the proposed roadway elevation. A 4 ft tall retaining wall is proposed to be constructed just north of the upper detention pond in order to minimize the impact to the native oak trees. The lower detention pond will be constrained by a new berm constructed in the natural drainageway.

This drainageway was mapped by the City to have a high landslide risk. As part of a geotechnical site investigation conducted by Foundation Engineering, Inc., the location of the proposed detention facilities were specifically analyzed for slope stability. The report concluded that groundwater flow will preferentially travel along the soil-rock interface at the base of the embankment, which will tend to destabilize the slope. Due to this potential

situation, Foundation Engineering, Inc. recommends lining the ponds with a geomembrane liner. In order to protect the geomembrane liner from long term UV exposure, they should be covered with a layer of soil. When covered with soil, the geotechnical report, recommendation 19, states that geomembrane lined slopes should be constructed no steeper than 3:1, or as recommended by the manufacturer. This directly conflicts with the proposed detention pond designs. (The proposed detention ponds had a 2:1 slope)

Conditioning the detention ponds to meet the requirements of the geotechnical report is outside the scope of this staff report. The design of the detention ponds is specific to a required volume capacity. Changing the slopes has consequences with the road fill and the design of the proposed retaining wall, as well as the placement in the natural drainageways. The consequences of failure of the road fill or the detention ponds is high with residences located down slope in the Brooklane Park Estates subdivision.

The appeal letter states that “during Planning Commission deliberations, staff was asked if they could develop a condition of approval to address the geotechnical concerns associated with the proposed detention ponds. Staff implied they could, but such a condition was never formulated for consideration.”

A condition of approval was not formulated because changing the slopes of the detention ponds would effect road fill, the design of the proposed retaining wall, and the placement of the ponds within the drainageway. Because of the engineering intricacies involved in designing detention ponds for the proposed location and potential consequences should the ponds fail, Staff believed it was outside their purview to create a design that would work, and describe the design in a written description that could be applied as a condition of approval. It should also be noted that Oregon Revised Statutes require land use applications to be deemed complete within 180 days from the receipt of the application. The final application materials were submitted on the 180th day. Once the inconsistencies between the proposed and recommended pond designs was discovered, there was no opportunity to request additional materials from the appellant to address the inconsistencies. During the Planning Commission hearing, the appellant provided further explanation as to how the design discrepancies could be overcome. As reflected in the draft minutes from the June 20, 2007, Public Hearing minutes, Staff indicated that “it might be possible to write a condition” addressing the ponds’ design after hearing the applicant’s testimony.

After formally appealing the Planning Commission’s decision to deny the Conceptual and Detailed Development Plans and Tentative Subdivision Plat, the appellant and Staff discussed the inconsistencies in the design of the detention ponds. As a result of these conversations the appellant proposed additional language to Condition of Approval 19 (**Attachment I**). Staff have reviewed the proposed revisions to Condition of Approval 19 and believes it sufficiently addresses Appeal Issue 3 and Staff concerns regarding the design of the detention ponds.

Appeal Issue 4 - Diversity in Housing Types

The subject proposal was reviewed for consistency with Comprehensive Plan policies because the proposal is for a Conceptual and Detailed Development Plan. Comprehensive Plan Policy 9.5.13 is one policy that applies to the proposal. This policy states (**Attachment IX. 168**):

New subdivisions and planned development of more than 5 acres in low density districts shall incorporate two or more of the following elements in at least 10% of the total acreage:

- A. Zero lot line or attached dwellings (where allowed);**
- B. Minimum allowed lot area; or**
- C. Dwelling size less than 1,200 square feet.**

Neither zero lot line nor attached dwellings are permitted in the (PD)RS-3.5 district; therefore, to satisfy Policy 9.5.13 the proposal must comply with “B” and “C” above. In staff’s interpretation of Policy 9.5.13, to comply with “B” and “C”, these elements must be incorporated on 10% of the 14.9 acre developable area of the total 25.88 acre site. This equals 1.49 acres, or 64,904 sq ft, though both elements need not be incorporated on each lot.

The Tentative Subdivision Plat presented to the Planning Commission did not include any lots at the 8,000 sq ft minimum size for the PD(RS-3.5) Low Density zone that was in effect at the time the application was submitted, and the application only proposes to construct infrastructure and lots that would be sold for custom development. Given, this the proposal does not comply with Comprehensive Plan Policy 9.5.13. The May 25, 2007, Staff Report to the Planning Commission addressed the possibility of applying a Condition of Approval to bring the proposal into compliance with Policy 9.5.13. The Staff Report stated,

It is possible to apply a condition of approval that would set deed restrictions on a certain number of lots, limiting dwelling size to less than 1,200 sq ft, thereby bringing the application into compliance with item “C” in Policy 9.5.13. As noted earlier, the proposed lots range in size from 8,354 sq ft to 21,597 sq ft, and average 11,791 sq ft. Since no lot equals the 8,000 sq ft minimum lot size, the proposal does not comply with item “B” in Policy 9.5.13. To condition the application to provide a certain number of 8,000 sq ft lots would necessitate changes to the site design. It is likely that any new design would create unforeseen impacts not evaluated in this report. Staff does not believe it is possible to condition the application to comply with item “C” in Policy 9.5.13.

Staff and the Planning Commission were particularly hesitant to write a condition specifying a certain number of 8,000 sq ft lots because without an actual tentative plat drawing, it would be difficult to know details such as new lot sizes, required street length, impacts to the configuration of adjacent lots, and potential changes regarding traffic impacts.

The appellant's appeal letter included a revised Tentative Subdivision Plat, different from that reviewed by the Planning Commission. The revised Subdivision Plat contains a total of 45 lots compared to the 42 lots originally proposed. The revised Plat includes 11 lots (lots 19-29) that are less than the 8,000 sq ft minimum lot size permitted under the PD(RS-3.5) zoning district. The average size of these eleven lots is 7,862 sq ft, and the sizes range from 7,683 sq ft to 7,976 sq ft.

Lots that are smaller than the 8,000 sq ft minimum lot size may be permitted through the Planned Development process if compensating benefits related to the requested Code deviation are provided. In the revised Plat, the smaller lots lead to compliance with Policy 9.5.13.c. It should also be noted that as of December 31, 2006, the subject site was legislatively re-zoned to PD(RS-5) through the implementation of the 2006 Land Development Code. Though the 2006 LDC does not apply to the current application, (because the application was submitted prior to implementation of the 2006 LDC) the minimum lot size for single-detached homes in RS-5 zones is 6,000 sq ft.

To address item "B" in Comprehensive Plan Policy 9.5.13, the appellant proposed a Condition of Approval that states,

"22. House Size Deed Restriction - Concurrent with final plat approval, the applicant shall record a deed restriction on lots 19 through 29 that restricts dwelling size to 1,200 square feet or less" (Attachment I).

The appellant has not provided building footprints to indicate how a site could be developed per applicable development standards. However, given the large size of most of the lots, the limited structure size on the smallest lots, and the fact that the current 2006 LDC permits single-detached housing on 6,000 sq ft lots, Staff does not anticipate any difficulties to construct buildings on lots 19-29 per applicable development standards. Given, the proposed Condition of Approval #22, in combination with the revised Tentative Subdivision Plat, Staff believe that proposal addresses Appeal Issue 4 and complies with Comprehensive Plan Policy 9.5.13.

Appeal Issue 5 - Cul-De-Sac Length

The following excerpt from the May 25, 2007, Staff Report to the Planning Commission explains the reasons why the proposed Badger Place cul-de-sac does not meet applicable LDC standards.

Land Development Code section 4.0.70.c.3 specifies that cul-de-sacs should not exceed 600 ft. The applicant has asked to vary from the 600-foot standard length on Badger Place due to topographical constraints and the desire to preserve significant trees. However, the applicant has not explained how 30 feet of extra length is going to fit the topography better or preserve more trees. Considering Comprehensive Plan Policy 9.5.13, which requires minimum lot sizes on a certain number of lots, lots on Badger Place could be reduced in size and width, thereby reducing the length of

Badger Place to 600 feet or less. The applicant has not demonstrated how the longer street results in a benefit to off-set the deviation from LDC section 4.0.70.c.3. It is not possible to condition the applicant to reduce the street length, because it would necessitate a redesign of at least some lots along Badger Place. Redesigning the street and lots could produce impacts that cannot be anticipated, or evaluated at this time. For these reasons, it is recommended that the request for the Badger Place cul-de-sac to vary from LDC section 4.0.70(c)(3) be denied.

During deliberations on June 20, 2007, one Commissioner indicated concurrence with the above rationale for denying the application by stating,

“...an applicant should explain why a variance is being requested. There was not enough information given to support the variance for the cul-de-sac length” **(Attachment III)**.

To address the failure of the application to comply with LDC section 4.0.70.c.3, the appellant submitted a revised Tentative Subdivision Plat with the appeal letter. As stated in the appeal letter, and illustrated in the revised Plat, the proposed Badger Place cul-de-sac has been reduced in length to 600 feet, thereby addressing Appeal Issue 5 and complying with LDC section 4.0.70.c.3.

Appeal Issue 6 - Trail Width

The proposed site design includes a pedestrian/bicycle trail connecting Badger Place to Wolverine Drive. The following excerpt from the May 25, 2007, Staff Report to the Planning Commission addresses the trail connection.

Pedestrian connectivity is proposed to be addressed by constructing a pedestrian path connecting the cul-de-sac at the east end of Badger Place to the northern portion of Wolverine Drive. The path will be placed in an easement that will also have a looped waterline as described in the Public Facilities and Services section, below. The proposed path is approximately 310 ft long. According to the LDC section 4.0.50.c.1, the path should be 8 ft wide. The applicant is asking for a reduction in width to 5 ft stating the anticipated usage should not exceed that of a regular sidewalk. Reducing the width of the sidewalk will also minimize intrusions into the hillside, and lessen potential impacts to nearby trees **(Attachment IX. 56)**.

Testimony given during the June 6, 2007, Planning Commission public hearing raised concerns that the proposed 5-foot wide trail was too narrow to function properly. Upon hearing these concerns, the appellant verbally indicated, during the Public Hearing, a willingness to enlarge the trail width to the 8-foot wide standard **(Attachment IV)**. The appellant's appeal letter and revised Tentative Subdivision Plat confirm the willingness to provide a standard 8-foot wide trail connecting Badger Place to Wolverine Drive.

As indicated in the above excerpt from the Staff Report to the Planning Commission, Staff supported the originally proposed narrower trail to minimize impacts to the hillside. The following excerpt from the Staff Report also noted that trees along the trail would likely need to be removed to install the trail.

Neither the applicant nor the consulting arborist addressed the ability to preserve the group of oak trees nearest the cul-de-sac on the proposed pedestrian connection to Wolverine Drive. It appears that the grading necessary to install this path and the water line located in the same area, would severely damage the trees, therefore, removal is appropriate. The consulting arborist recommended removal of the trees further up the pedestrian path, identified as trees 18-20, to preserve the vitality of the adjacent trees to the east.

Given the fact that the appellant has proposed to install a Code standard bicycle and pedestrian connection, and the reduction in impacts to natural features would not be realized through construction of a narrower trail, Staff concur that providing the standard size trail connection is appropriate. As proposed in the Revised Tentative Plat and appeal letter, the proposal addresses Appeal Issue 5 and complies with applicable LDC Standards and Comprehensive Plan Policies related to pedestrian and bicycle circulation.

Appeal Issue 6 - Hillside Drainage Concerns

The May 25, 2007, Staff Report to the Planning Commission addressed Storm Drainage, as written in the following several paragraphs excerpted from the Staff Report.

The site is located within the Marys River Storm Drainage Basin. The applicant is proposing to install curb inlets and a 12 inch pipe in the northern section of Wolverine Drive. This will direct water to a water quality manhole located near where Wolverine Drive turns north to connect with Oakmont Addition. The water quality manhole will outlet next to the road and allow the water to flow overland to an existing field inlet located near the property line with Brooklane Park Estates, near the northeast end of the private alley. This is connected to a 12 inch public storm drain that is located in an easement through a portion of Brooklane Park Estates. The applicant has proposed to excavate a channel or swale in order to direct the storm water from the water quality manhole to the existing field drain (Attachment R.50) (**City Council Attachment IX.61**). This channel or swale should be sized to safely pass 100 year peak storm flows. The applicant should also place a public drainageway easement over the swale. The applicant has not addressed the trees that are in close vicinity to the proposed swale. Three would likely have to be removed to allow the required earthwork to be performed and two more would likely have severe root damage due to the grading activities. The applicant has not proposed any stormwater detention for this portion of the development.

Curb inlets and a 12 inch public storm drainage line are also proposed to be placed along Buckeye Place (Attachment R.50) (**City Council Attachment IX.61**). The curb inlets will catch water from the intersection of Wolverine Drive and Buckeye Place

and also from the cul-de-sac at the east end of Buckeye Place. This water will be treated in a water quality manhole at the east end of the cul-de-sac. From there it will continue in pipes to the east through a combined sanitary and storm sewer easement. The pipe will outlet the water into Tract C where it will flow into a natural drainageway. This drainageway will direct the water to a detention pond located on the north side of Badger Place. The plans indicate the outlet structure of the detention pond will direct the water under Badger Place and into a second water quality manhole. Directing this water at a second water quality manhole appears to be redundant. Details of this design will be reviewed through the PIPC process specified in **Condition of Approval 8**. This water quality manhole will outlet the water back into the natural drainageway that will flow into a second water detention pond located south of Badger Place. The outflow of this pond will be directed to an existing field inlet located near the property line with Brooklane Park Estates, near the southwest end of the private alley. This is connected to a 12 inch public storm drain that is located in an easement through a portion of Brooklane Park Estates.

Additional curb inlets will be placed in Wolverine Drive between Badger Place and Buckeye Place, and in Badger Place. These will direct water to a new 12 inch public storm drain line in Wolverine Drive and Badger Place. The storm drain line will then direct the water to the second water quality manhole as outlined in the above paragraph.

Curb inlet catch basins will also be installed at the south end of Wolverine Drive, at the intersection with SW Brooklane Drive. The water will be directed to a water quality manhole and then into the existing 12 inch public storm drain line located in SW Brooklane Drive.

All public storm drainage facilities located outside of ROW should be placed in public drainageway easements. This includes pipes, water quality manholes, drainageways, swales, and detention ponds. The minimum required easement width is 15 ft for a single utility and 20 ft for two utilities, or, for drainageways, the $1.5X + 5$ LDC 4.5.80 (d)(3) formula. The easement must full encompass drainageways, swales, and detention ponds. All weather accesses must also be provided to the water detention facilities (**Condition of Approval 18**).

The water detention facilities should be designed consistent with both criteria outlined in Appendix F of the Storm Water Master Plan, and criteria outlined in the King County, Washington, Surface Water Design Manual, and should be designed to capture run-off so the run-off rates from the site after development do not exceed the pre-developed conditions, based on the 2-year, 5-year, and 10-year, 24-hour design storms (**Condition of Approval 19**).

The water quality facilities should be designed consistent with both criteria outlined in Appendix F of the Storm Water Master Plan, and criteria outlined in the King

County, Washington, Surface Water Design Manual. The water quality facilities should be designed to remove 70 percent of the total suspended solids (TSS) entering the facility during the water quality design storm, 0.9-inch 24-hour rainfall event with NRCS Type 1A distribution (**Condition of Approval 20**).

The proposed location of the water detention facilities is in one of the site's natural drainageways. The proposed construction of the ponds specifies 2:1 side slopes. The upper pond is proposed to be restrained by the road fill for Badger Place, and an additional berm would be placed on the north side of the road fill to allow the peak detention water surface to be above the proposed roadway elevation. A 4 ft tall retaining wall is proposed to be constructed just north of the upper detention pond in order to minimize the impact to the native oak trees. The lower detention pond will be constrained by a new berm constructed in the natural drainageway.

This drainageway was mapped by the City to have a high landslide risk. As part of a geotechnical site investigation conducted by Foundation Engineering, Inc., the location of the proposed detention facilities were specifically analyzed for slope stability. The report concluded that groundwater flow will preferentially travel along the soil-rock interface at the base of the embankment, which will tend to destabilize the slope. Due to this potential situation, Foundation Engineering, Inc. recommends lining the ponds with a geomembrane liner. In order to protect the geomembrane liner from long term UV exposure, they should be covered with a layer of soil. When covered with soil, the geotechnical report, recommendation 19, states that geomembrane lined slopes should be constructed no steeper than 3:1, or as recommended by the manufacturer.

During the June 6 and June 20, 2007, Planning Commission Hearing and Deliberations, concerns regarding drainage and surface water run-off were expressed in public testimony and by Planning Commissioners (**Attachments III, and IV**). To address these concerns, the appellant has proposed the following Condition of Approval:

- 23. Off-Site Drainage** - *Prior to final plat approval, the applicant shall develop a stormwater drainage plan that ensures site surface drainage is captured in area drains before it crosses the Brooklane Park Estates alleyway. If new off-site area drains are required above the alleyway, the applicant will utilize the existing utility easements, which were specifically designed for storm drainage and sanitary sewer, and will construct such facilities to discourage stormwater from crossing the alleyway.*

The utility easements referred to by the appellant are illustrated in **Attachment I.9**. Staff concur with the appellant that the proposed condition of approval addresses concerns raised by the Planning Commission and public testimony, and that the proposed condition of approval provides additional assurances that the site drainage and off-site impacts will be handled so as to prevent negative impacts on down slope properties.

Given the proposed conditions of approval, which require the storm water detention ponds to be constructed per the geotechnical report, and the condition of approval just discussed that would provide further assurances that storm water drainage would not negatively impact adjacent properties, Staff believe that the application addresses Appeal Issue 5 and complies with applicable LDC standards and Comprehensive Plan policies regarding storm drainage.

Conclusion Regarding the Proposed Conceptual and Detailed Development Plans

From the preceding discussion, it is clear that the appellant has proposed significant changes to the proposal that was reviewed and denied by the Planning Commission. Staff have also determined that given the proposed changes, a number of the shortcomings of the original proposal have been addressed by the appellant's proposed conditions of approval. Staff have identified 2 Appeal Issues that are still subject to question. The first is the issue of whether it is possible to approve only Phase I of the proposal if the Council is not convinced the appellant has met the burden of proof for the entire Planned Development. An approach the Council could consider would be approval of a Conceptual and Detailed Development Plan for Phase I (Tract D) only. Staff identified no conflicts with development standards on this portion of the site.

The other issue remaining, which was one that had prompted denial of the application, is the grading plan for the site. The appellant's revised plans have reduced both the extent and the depth of the cuts and fills in excess of 8 feet when compared to the original applicant-preferred grading plan. However, from the information provided, staff cannot determine if the lots that remain ungraded could be developed to the cut and fill standards in the LDC. In addition, staff do not believe it is appropriate to condition a project in a manner that would result in a need to obtain a Planned Development Modification for the condition to be met, although the appellant may be willing to propose such a condition.

From the information provided, staff were unable to find that the appellant had met the burden of proof regarding Appeal Issues 1 and 2 (phasing and grading). Consequently, staff recommend that the Council uphold the Planning Commission's decision denying the Conceptual and Detailed Development Plans for the subject site.

Tentative Subdivision Plat

The analysis in the May 25, 2007, Staff Report to the Planning Commission found that the Tentative Subdivision Plat proposal complies with all applicable standards in LDC Chapter 4.4. With the exception of the proposed reduced lot sizes for lots 19-29, conformance with the standards is maintained. However, since the Tentative Subdivision Plat is dependent on approval of the Conceptual and Detailed Development Plans for the subject site (with or without the reduced lot sizes), staff must also recommend that the Council uphold the Planning Commission's denial of the Tentative Subdivision Plat.

Conclusion

On June 20, 2007, the Planning Commission deliberated on the appellant's request for approval of a Conceptual and Detailed Development Plan and Tentative Subdivision Plat to construct 42 lots on a 25.88 acre site adjacent to Brooklane Drive. Based on facts presented in the May 25, 2007, Staff Report and reasons expressed during the June 6, 2007 Planning Commission Public Hearing and June 20, 2007, Deliberations, the Planning Commission denied the appellant's request. Reasons for denying the request articulated in the May 25, 2007, Staff Report and by the Planning Commission include the following.

- Failure to comply with Comprehensive Plan policies related to hillside development, and in particular, Policy 4.6.7;
- Failure to comply with Comprehensive Plan policy 9.5.13, which requires a certain percentage of minimum sized lots and a variety of housing types and sizes.
- Inconsistencies between the proposed design of storm water detention ponds and the design recommended in the appellant's geotechnical report;
- Failure to meet LDC section 4.0.70.c.3, which limits the length of cul-de-sacs to 600 feet;
- Failure to comply with LDC section 4.0.50, which requires an 8 foot wide bicycle/pedestrian path.
- Failure to provide typical elevations sufficient to indicate the architectural intent and character of the proposed development per LDC section 2.5.50.a, thereby limiting the ability of the Planning Commission to evaluate compatibility impacts, especially those related to hillside views and hillside development.

On July 5, 2007, the appellant submitted a letter outlining reasons for appealing the Planning Commission decision. As part of the July 5, 2007, letter the appellant provided a revised Tentative Subdivision Plat and revised grading plan, along with a number of suggested Conditions of Approval. This letter was followed with a supplemental letter on July 16, 2007, that provide further explanation of the revised grading plan.

The City Council is required to consider the application de novo, or as for the first time. Therefore, the entire application, and not just the issues raised on appeal, should be considered. The May 25, 2007, Staff Report provides a detailed evaluation of the proposal's ability to comply with applicable LDC Standards and Comprehensive Plan policies. This Memorandum focused on issues raised on appeal. In considering the issues raised on appeal, Staff believe that the revised Tentative Subdivision Plat, which could be incorporated as a Condition of Approval, along with other Conditions of Approval suggested by the appellant, could overcome most of the stated reasons for denying the application. However,

Staff does not believe the proposed Conditions of Approval as reflected in the revised grading plan satisfy the hillside development criteria in Comprehensive Plan Policy 4.6.7. Further, insufficient detail regarding the extent of grading that will be necessary on the non-mass graded lots, and insufficient detail regarding building design on all lots, lead Staff to believe the Conceptual and Detailed Development Plan proposal does not comply with applicable hillside development standards. This also results in uncertainty regarding the compatibility of future development including impacts to surrounding properties' views. For these reasons, Staff recommend that the City Council deny the appeal and the proposed Conceptual and Detailed Development Plans. Because the proposed Tentative Subdivision Plat is predicated on approval of the proposed Conceptual and Detailed Development Plan, it is also recommended that the City Council deny the proposed Tentative Subdivision Plat.

III. REQUESTED ACTION

Conceptual and Detailed Development Plan

With respect to the appeal of the Planning Commission decision to deny the Brooklane Heights Conceptual and Detailed Development plan (PLD06-00018) the City Council has the following options:

- OPTION #1:** **Approve** the proposed Conceptual and Detailed Development Plans, thereby overturning the Planning Commission's decision and upholding the appeal; or
- OPTION #2:** **Deny** the proposed Conceptual and Detailed Development plan, thereby upholding the Planning Commission's decision and denying the appeal; or
- OPTION #3:** **Approve** the proposed Conceptual and Detailed Development plan with Conditions, thereby overturning the Planning Commission's decision and upholding the appeal.

From the facts presented in the May 25, 2007, Staff Report to the Planning Commission (**Attachment IX**) and findings made during the June 20, 2007, Planning Commission deliberations on this matter, (**Attachment III**) the Planning Commission and staff recommend that the City Council pursue Option #2, denying the Conceptual and Detailed Development Plan 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 May 25, 2007, Staff Report to the Planning Commission that support the Staff recommendation to deny the Conceptual and Detailed Development Plan. This motion is also based on the criteria, discussions, and conclusions contained within the June 6, and June 20, 2007, Planning Commission meeting minutes, and the August 10, 2007, 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 their deliberations on this matter.

MOTION: I move to deny the proposed Conceptual and Detailed Development Plans, subject to adoption of Formal Findings and Conclusions.

Should the City Council decide to approve the appellant's Conceptual and Detailed Development Plan request and overturn the Planning Commission decision, staff recommend that the City Council apply the Conditions of Approval found in **Attachment VIII** of this memorandum.

Tentative Subdivision Plat

With respect to the appeal of the Planning Commission decision to deny the Brooklane Heights Tentative Subdivision Plat (SUB06-00006), the City Council has the following options:

OPTION #1: **Approve** the proposed Tentative Subdivision Plat, thereby overturning the Planning Commission's decision and upholding the appeal; or

OPTION #2: **Deny** the proposed Tentative Subdivision Plat, thereby upholding the Planning Commission's decision and denying the appeal; or

OPTION #3: **Approve** the proposed Tentative Subdivision Plat with Conditions, thereby overturning the Planning Commission's decision and upholding the appeal.

From the facts presented in the May 25, 2007, Staff Report to the Planning Commission (**Attachment IX**), and findings made during the June 20, 2007, Planning Commission deliberations on this matter, (**Attachment III**), the Planning Commission and staff recommend that the City Council pursue Option 2, denying the Tentative Subdivision Plat 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 May 25, 2007, Staff Report to the Planning Commission that support the Staff recommendation to deny the Tentative Subdivision Plat. This motion is also based on the criteria, discussions, and conclusions contained within the June 6, and June 20, 2007, Planning Commission meeting minutes, and the August 10, 2007, 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 their deliberations on this matter.

MOTION: I move to deny the proposed Tentative Subdivision Plat, subject to adoption of Formal Findings and Conclusions.

Should the City Council decide to approve the appellant's Tentative Subdivision Plat request and overturn the Planning Commission decision, staff recommend that the City Council apply the Conditions of Approval found in **Attachment VIII** of this memorandum.

ATTACHMENTS

- ATTACHMENT I -** Appeal Letter, dated July 5, 2007, addendum dated July 16, 2007, and Traffic Impact Analysis addendum dated July 19, 2007.

- ATTACHMENT II -** Planning Commission Notice of Disposition regarding the Brooklane Heights Conceptual and Detailed Development Plan and Tentative Subdivision Plat, signed June 22, 2007

- ATTACHMENT III -** Excerpt of the June 20, 2007, Planning Commission Minutes

- ATTACHMENT IV -** Excerpt of the June 6, 2007, Planning Commission Minutes, including written testimony submitted to the Planning Commission during the June, 6, 2007, public hearing.

- ATTACHMENT V -** Written public testimony received after release of the May 25, 2007, Staff Report to the Planning Commission and before 5:00 PM on June 6, 2007.

- ATTACHMENT VI -** Meadowridge at Timberhill (CPA00-00012 et al) Notice of Disposition

- ATTACHMENT VII-** Excerpt of Meadowridge at Timberhill (CPA00-00012 et al), Staff Report, dated March 26, 2001.

- ATTACHMENT VIII -** Staff Recommended Conditions of Approval

- ATTACHMENT IX -** May 25, 2007, Staff Report to the Planning Commission

Review and Concur:


Jon S. Nelson,
City Manager

Richardson, Robert

From: Susan Morre [susanmorre@comcast.net]
Sent: Thursday, March 24, 2011 4:29 PM
To: Richardson, Robert; Gibb, Ken
Subject: FW: importance of upland prairie and Oregon oak habitats

FYI

From: Susan Morre [mailto:susanmorre@comcast.net]
Sent: Thursday, March 24, 2011 12:56 PM
To: 'mayor@council.ci.corvallis.or.us'; 'Mark O'Brien'; 'ward2@council.ci.corvallis.or.us';
'ward3@council.ci.corvallis.or.us'; 'ward4@council.ci.corvallis.or.us'; 'ward5@council.ci.corvallis.or.us';
'ward6@council.ci.corvallis.or.us'; 'ward7@council.ci.corvallis.or.us'; 'ward8@council.ci.corvallis.or.us';
'ward9@council.ci.corvallis.or.us'
Cc: 'nancy.raskauskas@lee.net'
Subject: importance of upland prairie and Oregon oak habitats

Dear Mayor and Council,

I know you are busy, but in case you want to know a little bit more about why oak savannas and upland prairies are important (less than 1% are left in the Willamette Valley), here is a video from OPB last year:

<http://www.opb.org/programs/ofg/segments/view/1745>

Thanks,
Susan

Richardson, Robert

From: John Selker [selkerj@gmail.com]
Sent: Thursday, March 24, 2011 10:20 PM
To: Richardson, Robert
Cc: Laurie Childers
Subject: Submitting written comments on Brooklane Heights - Laurie Childers

Please include the following in the written record of the Brooklane Heights Development

My observations of the process regarding Brooklane Heights have given me an idea that might help the budget crisis at the same time it improves the functioning of the city government.

Rule # 1: Let's just make sure that anyone and everyone follows the rules.

I further propose Rule # 2: that any developer, and any homeowner, that submits a plan that asks for variances in the Land Use Development Code or the building code, pays all the costs involved in pursuit of those variances. That includes the hourly wages of the city staff, including development staff and city lawyers, and LUBA staff. The basic application fee probably covers basic costs of such staff, but variances are where it gets expensive for us taxpayers.

As it is, with Brooklane Heights as an example, with the original proposal requiring 28 variances, I see that it has cost the city, the state, and individual citizens enormous sums in the struggle to get the developer to submit plans that are aligned with the code. Taxpayers paid for the city lawyers, who had to defend the City Council's overturning of the unanimous NO vote of both the Planning Dept. and the Planning Commission. Taxpayers paid for LUBA to review the complaints. And the concerned citizens who have resisted the easy dismissal of the protections of the development code, have paid a third time, because we had to pay for our lawyer, and the city's lawyer, and the LUBA folks in Salem.

None of this would have been necessary if the developer had simply instructed his engineer to always follow the code in the plans, to submit the grading proposal on 2' contours, to have the both the hydrologic analysis and stormwater retention plan to compare (among many other faults). Why has it been otherwise? Why has the developer continued to submit incomplete information? Why is he making a last-minute plan to cut down the largest Oregon White Oak on the property, which directly ignores a previous condition of approval to protect the remaining oaks, especially the specimen trees?

The Planning staff and the Planning Commission all voted NO, unanimously, on this

development. A city planner told me that this was the first time that has ever happened. *Yet City Council – having never visited the site, and without the technical comprehension of the city planning staff and commission, overturned this decision in 90 minutes.*

There can only be one good reason for City Council to have to power to overturn Planning staff and Planning Commission decisions. That would be to *prevent* corruption, in a hypothetical case in which rules *had* been followed, but the Planning department denied the permit. City Council should be providing oversight to ensure rules are followed, *not* to bypass those rules. In other countries, we call what's happened here corruption.

Are City Councilors so hungry for more immediate tax base that they are willing to risk huge expenditures fixing problems in the future? In the case of Brooklane Heights, I believe this is pennywise and pound foolish. Drainage and erosion problems on such steep slopes have been seen in recent years in Eugene, Philomath, and Portland. It's a very expensive nightmare to have the extra runoff from new pavement uphill undermine your house's foundation. Houses have slid off their foundations. We already have a nightmarish erosion situation on Fairhaven Dr., ¼ mile away from this proposed development, that is the result of an excess cut in the steep hillside. The lot has been abandoned and the trees at the edge of the new cliff there look mighty precarious. This is not good for our property values, nor our future tax base.

Corvallis is a desirable community. Our country is growing in population. We are not at risk of there being no new housing developments. Please, City Councilors, insist upon developers following the codes. Those codes exist for our long-term safety and quality of life. I understand that there might occasionally be good reason for variances, but in such cases the developer should be willing to pay the costs to review these variances.

Laurie Childers

2675 SW Fairmont Dr

Corvallis, OR 97333

--

John Selker
office 541-737-6304
mobile 541-908-3323
home 541-757-9025

3/25/2011

MEMORANDUM

MARCH 23, 2011

TO: Mayor and City Council

FROM: Ellen Volmert, Assistant City Manager

SUBJECT: March 23, 2011 Legislative Committee Meeting Working Notes

1. Call to Order

Mayor Manning called the meeting to order at 7:30 a.m. with Councilors Brauner, Brown, and O'Brien in attendance. Also present were Assistant City Manager Volmert, Police Chief Boldiszar, and Dr. Elder.

2. HB 3510 Single Payer Health Care

Dr. Elder explained the single payer issue and presented language changes to the prior City Council resolution on health care reform that he would recommend. Resolution 2009-21 supported including the single payer option in the federal reform discussion. His recommended changes expands to State reform efforts and would include support for a version of HR 3510 or SB 888 which would establish such a single payer system. He also mentioned another similar bill by Sen. Morse which sets a sales tax as the funding source and he believes is therefore less likely to find support. He presented an article from the New England Journal of Medicine expressing support for a Vermont measure to establish a single payer system there.

The Committee had questions about how the bill fits with current State health reform efforts including the establishment of an insurance exchange, its current status, sources of funding, allowance for supplemental insurance, and treatment of public employees vs. others. Dr. Elder noted many details are left to the Board which is established by the legislation, including a funding mechanism. His group prefers a payroll tax. In Vermont, they would establish the exchange prior to implementing the single payer option. Dr. Elder believed that supplemental plans would be allowed. While public employees must be covered by the single payer option under the legislation it is not intended only for public employees but for everyone. Dr. Elder indicated the bill had received a hearing but has yet to be voted on in committee. The Committee thanked Dr. Elder for bringing the issue before the City Council.

In discussion, the Committee expressed concerns regarding the uncertainty of the funding or cost impacts. The Committee agreed to defer until more information is available, but continue to monitor the issue.

3. Law Enforcement Bills

Chief Boldizar presented three bills to the Committee. One, HB 2075 regarding pre-paid cellular phones, had already been acted upon by the full Council due to timing issues.

HB2712 includes substantially raising presumptive (minimum) fines and maximum fine amounts for all violations within the code. It also prohibits municipal judges from deferring or reducing the presumptive fine in any way. The bill therefore restricts local authority and discretion and may have the impact of increasing demand for court hearings which increases the City's cost, especially for police overtime. It may also discourage police officers from writing tickets where the offense does not seem to warrant the extent of the penalty. The Committee unanimously recommends that the City Council oppose HB 2712 and that the Mayor communicate this opposition to our State representatives should the bill start to move.

HB 2741 also deals with emergency communications and would establish the Emergency Communications Account as a trust which can only be used for emergency communications purposes. The City receives about \$500,000 in funds or about a quarter of the Communications Center budget from these accounts and lost \$100,000 of that last year as the State transferred moneys from the account to balance the State budget. This bill would prohibit such transfers. The Committee unanimously recommended that the City Council support HB 2741 and that the Mayor communicate such support to our State representatives.

4. Plastic Bag Resolution Submitted by the Sierra Club

The Committee discussed SB536 and the recommended resolution from the Sierra Club, as well as other resolutions included by the Club in their request and prior City Council minutes dealing with the plastic bag issue. Questions were raised regarding the minimum five cent charge for non-recycled content paper bags (seems like a tax), the lack of information regarding weighing the impacts of plastic bags, compostable (corn based) plastic bags, and paper bags, and why restaurants were exempted and how that is defined. Councilor Brauner volunteered to work with Assistant City Manager Volmert on a revised resolution similar to the one from Lake Oswego presented in the materials; and this resolution would support the concept of encouraging reusable bag use, but not include the five cent minimum charge. The Committee agreed to recommend adopting such a resolution to the City Council (attached).

5. Human Resources Bills

Assistant City Manager Volmert presented human resources related bills of interest as presented in the staff report. Staff recommended opposing HR 3293

relating to requiring local government employees to provide health insurance through a State pool. Mayor Manning noted that when this was done for school district employees it was to save money, but the Corvallis School District did not see savings. Councilor Brauner described how individual school districts previously had the ability to innovate to reduce costs and this would be lost for local governments were the bill to pass. The Committee unanimously recommends that the City Council oppose HB 3293. Other bills discussed will continue to be monitored but are not recommended for action at this time.

6. Next Meeting

The next meeting will be April 6, 2011 at 7:30 a.m. in the Cornell Meeting Room. Topics for discussion include public works bills of interest.

7. Adjournment

The meeting adjourned at 8:46 a.m.

Attachments

3/23/11

I propose to change and resubmit the previous resolution (2009-21) in the following ways:

(In order to redefine purpose to support HR 676 at federal level and HB 3510, SB 888, and possibly Frank Morse's new bill:)

Remove third from last "Whereas", since purpose is to support bills, not debate.

Change last two lines of "resolves" statement to say (following "health system reform":

"based on HR 676". Additional statement will be, "That the city council urges state representatives to support a version of HR 3510 or SB 888"

Add to end of second paragraph after federal representatives: , "and to state representatives."

Consider adding "Whereas":

WHEREAS, without limitation of costs of health care other vital public services, such as those in education, police, fire and rescue will continue to be reduced, and



State-Based, Single-Payer Health Care — A Solution for the United States?

William C. Hsiao, Ph.D.

The United States faces two major problems in the health care arena: the swelling ranks of the uninsured and soaring costs. The Patient Protection and Affordable Care Act (ACA) makes great

strides in addressing the former problem but offers only modest pilot efforts to address the latter. Experience in countries such as Taiwan and Canada shows that single-payer health care systems can achieve universal coverage and control inflation of health care costs. Because of strong political opposition, however, the U.S. Congress never seriously considered a single-payer approach during the recent reform debate. Now Vermont, wishing to solve the intertwined problems of costs and access through systemic reform, is turning in that direction. Vermont Governor Peter Shumlin campaigned on a platform of single-payer health care, and

Democratic legislative leaders are committed to this approach.

In Vermont, the status quo in health care has become untenable. Despite numerous reforms over the past 15 years, Vermont's health care costs are escalating rapidly, straining the state budget, household incomes, and employers' bottom lines. More than 7% of Vermonters are uninsured, and another 15% have inadequate insurance.

The Vermont Legislature passed Act 128 in May 2010 authorizing a study to find the most viable and practical systemic solutions to these problems.¹ The goals are clear and ambitious: Vermont wants to achieve universal coverage, reduce the rate

of cost increases, and create a primary care-focused, integrated delivery system. The question is how to achieve those goals. My team of health system analysts at the Harvard School of Public Health was commissioned by the Vermont Legislature to develop and evaluate three options for health system reform and determine which option would best achieve the stated goals.

We conducted extensive fiscal, legal, institutional, and stakeholder analyses in Vermont to gain an in-depth understanding of the hurdles confronting any such plan and to design ways of overcoming or navigating around them. Our findings presented a striking picture. Vermont faces a \$150 million budget shortfall. Employers argue that health care costs jeopardize their businesses' financial viability, while families struggle to pay out-of-pocket health care costs. Vermont busi-

nesses and workers are unwilling to spend more for health care.

On the other hand, Vermonters are also largely unwilling to reduce their level of benefits. Our analysis found that, on average, Vermonters have rich insurance benefits approaching the ACA's "platinum" standard. Similarly, physicians and hospitals are unwilling to accept reductions in their net incomes.

Our analyses led us to adopt several design principles that shaped our recommended design. First, we wanted to design a system capable of achieving universal coverage and reducing the cost inflation rate. Any increases in spending to cover the uninsured and underinsured would have to come from savings generated by systemic reforms. Any financing mechanism should not increase the costs to the state, businesses, and households. Second, we aimed to maintain Vermonters' current average benefits. Third, we sought to maximize federal revenues from all sources. Fourth, we would not reduce overall net income of physicians, hospitals, or other providers. Finally, we sought to eliminate the perverse incentives inherent in the fee-for-service system, through risk-adjusted capitation payment plus performance bonuses, to provide incentives for the formation of accountable care organizations and care integration.

We found that the system capable of producing the greatest potential savings and achieving universal coverage was a single-payer system — one insurance fund that covers everyone with a standard benefit package, paying uniform rates to all providers through a single payment mechanism and claims-processing

system. Our analysis showed that Vermont could quickly save almost 8% in health care expenditures through administrative simplification and consolidation, plus another 5% by reducing fraud and abuse.

We recommended that the single payer be a public-private partnership. An independent board with representation from both the major health care payers (employers, the state, and workers) and the major beneficiaries and recipients of payment (providers and consumers) would negotiate updates to the benefit package and payment rates. We also proposed contracting out claims administration through a competitive bid to create incentives to develop more efficient systems.

This system reduces the rate of cost increases over time by insulating major decisions about health care spending from politics, as well as by paying providers through capitation rather than fee for service, promoting delivery-system integration, and reducing the practice of defensive medicine by implementing a no-fault medical malpractice system. All told, we estimated that Vermont could save 25% in health care expenditures over 10 years (estimated savings for the first 5 years are shown in the table).

Eligibility for coverage in the system would be based solely on proof of Vermont residency, the same requirement currently used by Vermont Medicaid; this approach effectively divorces health benefits from employment. However, we proposed to finance the system through a payroll contribution on all Vermont wages, split between employer and employee, to preserve the federal tax treatment of

health benefits — a tax expenditure worth \$400 million to \$500 million in Vermont. We recommended delaying the implementation of the single-payer system until after Vermont's insurance exchange has been operating for a year, at which point the state will have a basis for arguing for a waiver from the ACA requirements and estimating the amount of a federal block grant it would receive before 2017, when current ACA law allows for waivers.¹

We used two economic models to estimate the impact of the proposed system. We fed estimated savings and costs under the single-payer system into a MicroSimulation Model, developed by the Massachusetts Institute of Technology's Jonathan Gruber, which simulated the likely responses to the ACA by employers and low-income workers and estimated the amount of state and federal spending under the law, as well as computing the payroll contribution rates necessary to finance our plan. We then fed those results into a macroeconomic model developed by Regional Economic Models to estimate the effects on jobs and the gross state product that would result from additional spending for health care when more people were covered and the increase in household income and consumption when insurance premiums decreased with a single-payer plan. The models predicted that, as compared with implementing the ACA, the single-payer system would result in lower spending by employers, the state, and households and in the creation of more jobs in Vermont. For example, without single-payer reforms, we predict that employers

| Estimated Impact of the Recommended Single-Payer Plan for Vermont.* | | | | | |
|---|-------|------|------|------|-------|
| Variable | 2015 | 2016 | 2017 | 2018 | 2019 |
| Savings (millions of dollars) | 580 | 770 | 880 | 990 | 1,100 |
| Additional expenditures (millions of dollars) | 380 | 395 | 408 | 420 | 435 |
| Payroll tax (% of total payroll) | | | | | |
| Employer share | 10.60 | 9.40 | 9.10 | 8.90 | 8.70 |
| Employee share | 3.60 | 3.10 | 3.00 | 2.95 | 2.90 |
| Number of new jobs created | 3800 | 3600 | 3400 | 3200 | 2900 |
| Impact on gross state product (millions of dollars) | 110 | 90 | 75 | 57 | 33 |

* All dollar figures represent 2010 dollars. "Additional expenditures" represent the total additional cost of covering the uninsured, bringing benefits for underinsured people up to the standard benefit, covering some dental and vision care, investing in primary care and hospital capacity, and achieving uniform payment rates.

would pay 12% of their payrolls in health insurance premiums in the first year, with further increases to follow.

The governor has already introduced legislation establishing the first building blocks of a single-payer system: payment reform, the creation of the independent board, and the mandate to build Vermont's health insurance exchange as a platform for a single-payer infrastructure. Legislation establishing universal coverage and its financing will follow, when the state can obtain waivers from Medicare's and

Medicaid's provider-payment rules and the ACA's individual mandate and subsidy rules. Innovative state reforms are being encouraged, as illustrated by President Obama's support for the Wyden-Brown bill,² which would grant waivers from ACA requirements in 2014 if states can meet the ACA's goals. The Vermont single-payer plan certainly can.

Perhaps we are at the dawn of systemic reform in U.S. health care. The Vermont single-payer plan will never be as efficient as Taiwan's or Canada's because it must work within the

bounds of federal laws and programs and the realities of porous state borders. Nevertheless, it can produce substantial savings to fully fund universal coverage, reduce health care costs for most businesses and households over time, and reform a fragmented delivery system. Of course, someone will bear the burden — mostly the private insurance industry and high-wage businesses that don't currently offer insurance. But if Vermont can navigate its political waters and successfully implement this plan, it will provide a model for other states and the country as a whole.

From the Department of Health Policy and Management, Harvard School of Public Health, Boston.

Disclosure forms provided by the author are available with the full text of this article at NEJM.org.

This article (10.1056/NEJMp1100972) was published on March 16, 2011, at NEJM.org.

1. Act 128 Health System Reform Design Final Report. (http://www.leg.state.vt.us/jfo/healthcare/FINAL%20REPORT%20Hsiao%20Final%20Report%20-%202017%20February%202011_3.pdf)

2. Stolberg SG, Sack K. Obama backs easing state health law mandates. *New York Times*. February 28, 2011.

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RESOLUTION 2009- 21

Minutes of the June 1, 2009, Corvallis City Council meeting, continued.

A resolution submitted by Councilor David Hamby

WHEREAS, the City Council of the City of Corvallis believes that every citizen and family in our city, county, the state of Oregon, and the United States will benefit from affordable, quality healthcare, and the City Council believes that disruptive healthcare costs to local economies and governments would be reduced thereby; and

WHEREAS, over 82 million Americans have major healthcare insurance problems, including 42 million Americans currently uninsured and more than 40 million Americans nationwide currently under-insured; the burden on both small and large employers, both private and public, of providing employee health insurance is becoming increasingly difficult and prohibitively expensive, which impacts their ability to remain competitive; and

WHEREAS, as a major local employer, the City of Corvallis provides health insurance for over 400 employees and their families and has worked for many years to provide cost effective, responsive health care insurance through an invest in health strategy and partnerships with other employers, and yet has still experienced rapid increases in health care premiums and expenses; and

WHEREAS, such matters as healthcare affordability and access ultimately are community issues with local importance and long-terms impacts that strain local government budgets in diverse ways, such as public safety and school health issues; and

WHEREAS, the Corvallis Vision 2020 Statement references such impacts and sets a community goal for comprehensive health services that are easily accessible and available to all residents; and

WHEREAS, Americans spend more for healthcare as a percentage of Gross Domestic Product than any other industrially developed nation; and America, unlike other developed nations, has a fragmented healthcare delivery system, which contributes to higher costs and inefficiencies; and

WHEREAS, even those people who have health insurance experience high medical debt and medical costs are a frequent cause of filing personal bankruptcy for those that are insured as well as those who lack insurance; and

WHEREAS, numerous reports show that private insurance systems have significantly higher administrative costs compared to public Single-Payer-type systems such as Medicare and the Veterans Administration and that bills have been filed in Congress seeking Single-Payer-type comprehensive health system reform, including HR 676 (Improved Medicare for All) and S 703 (The American Health Security Act); and

WHEREAS, polls taken among American physicians show that a significant majority believe that Single-Payer-type systems offer the best method of securing affordable healthcare and these opinions

are shared by other health care professionals as indicated by endorsements from the National Medical Association, American Medical Women's Association, American Medical Student Association, American Association of Community Psychiatrists, American Nurses Association, California Nurses Association/National Nurses Organizing Committee, Oregon Chapter Academy of American Family Physicians, and the American Public Health Association; and

WHEREAS, Single-Payer-type systems have been endorsed by local governmental units such as the US Conference of Mayors and the Lane County Board of Commissioners; and

WHEREAS, citizens of Corvallis, Oregon and the United States will benefit from an honest and full debate on health reform proposals if such debate fairly includes the advantages of Single-Payer-type health care systems such as HR 676 and S 703; and,

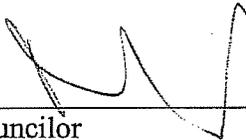
WHEREAS, the City of Corvallis is involved in health reform discussions through its membership in the Oregon Healthcare Purchasers Coalition and its own health care and wellness programs as well as providing services to the community in support of healthy and active living; and

WHEREAS, health care reform efforts are aimed at improving access and affordability of health care as well as transparency of cost and performance information and provider and consumer incentives for wise use of health care and engagement in wellness and prevention.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES

That the City Council, in order to support access for all Americans, especially the citizens of Corvallis, like citizens of other developed nations, to higher quality and cost-effective healthcare, urges the Oregon Congressional Delegation and the United States Congress to enact comprehensive health system reform after conducting an honest, full and fair debate of all options including Single-Payer-type systems and expansion of a Medicare-for-all system; and

That the City Council hereby direct the Mayor to send a copy of this resolution to the Corvallis Gazette Times and the Oregon State University Barometer, radio and television stations, and to our federal representatives for their due consideration and enactment.



Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted, and the Mayor thereupon declared said resolution to be adopted.

HB2075

Louie, Kathy

From: Nelson, Jon
Sent: Monday, March 14, 2011 11:15 AM
To: Representative Sara Gelsler (rep.saragelsler@state.or.us); Senator Frank Morse (sen.frankmorse@state.or.us)
Cc: Manning, Julie; Louie, Kathy; Boldizsar, Gary
Subject: HB 2075

Hi Representative Gelsler and Senator Morse,

Chief Boldizsar's e-mail (content below) does a good job of capturing the equity and subsidy issues currently in play in 9-1-1 Centers that have evolved with the growth of cell phones. To put this in a money context, the Corvallis regional 9-1-1 Center, which serves 10 emergency service agencies in Benton County, must rely on \$936,420 in general fund payments (property taxes) in addition to the 9-1-1 tax, to maintain operations. This is becoming increasingly difficult to maintain as budget reductions occur across the board for all services and agencies.

Thanks for understanding the importance of this issue to emergency service providers and other local government service providers.

In a brief discussion with Mayor Manning, she endorsed support for HB 2075, and we will be sharing this e-mail with the City Council for their formal consideration of HB 2075 on March 21, 2011. Fyi, the Corvallis City Council is already on record in support of maintaining state shared revenues and addressing inequity issues of which this is one.

Thanks for your service.

Jon Nelson

Representative Gelsler... I am making this contact to urge you to support House Bill 2075, the bill to require the collection of 9-1-1 user fees (75 cents per month per line) from non-contract cell phone providers. The Corvallis Regional 9-1-1 Center, one of 49 such centers in Oregon, is operated by the Corvallis Police Department. We provide police and fire emergency dispatch services for every police and fire agency in Benton County. Last year 62% of our calls for service originated from a cellular telephone. Calls to the 9-1-1 centers are significantly increasing each year driving demand for services, staffing, related equipment and ultimately costs to run the center. The Corvallis Regional 9-1-1 Center receives about 25% of its funding from the 9-1-1 user fees. The telephone communication system has been experiencing a significant reduction in the percentage of wired phones, which historically all pay the 75 cents per month fee, and are being replaced by cellular and internet phones. The latest trend is the movement to non-contract cellular telephones which will result in further reductions in 9-1-1 tax revenues for the 9-1-1 Centers in Oregon. I urge you to support HB 2075 so that there will be equity in the 9-1-1 telephone tax system. Thank you.

Gary D. Boldizsar, Chief
Corvallis Police Department
(541) 766-6925

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.



LEGISLATIVE ALERT

DATE: March 11, 2011

TO: General Membership

ISSUE: 911 Tax

HOMETOWN ACTION:

Please contact your Representative to request they support HB 2075.

MESSAGE TO LEGISLATORS:

- HB 2075 requires pre-paid cellular service providers to remit 911 taxes as required by all other telecom providers.
- HB 2075 does not create a new tax; it simply allows an alternative means for the collection of the tax.

BACKGROUND:

All telecommunications providers that supply communication products that are capable of reaching a 911 dispatcher are required to pay a \$.75 tax as part of the monthly billing process. When this collection method was designed, a pre-paid plan was not envisioned. All HB 2075 does is update the collection system to account for new business models.

TELL YOUR CITY'S STORY:

Explain to Legislators the challenges your city has in meeting their 911 costs and how the system needs to be upgraded to account for emerging technologies.

Nelson, Jon

From: Angela Carey [acarey@orcities.org]
Sent: Monday, March 14, 2011 9:00 AM
To: Angela Carey
Subject: FW: HB 2075, The League needs you to contact your State Representative
Attachments: 911 Alert.pdf

Good Morning,

The League of Oregon Cities needs you to contact your Representative and urge them to **support** HB 2075. This bill requires pre-paid cellular service providers to remit 911 taxes as required by all other telecom providers. The bill is scheduled for work session on Thursday, March 17 in the House Revenue Committee.

Detailed information about the bill is attached. Please do not forward this information outside of your city. You can also go to the League's Web page at www.orcities.org and click "Legislative on the left-hand menu." You can access the alert or choose "Contact My Legislators" for phone and e-mail information. You can also send an e-mail to your Representative directly from that page.

It is critical that the League hear how your legislator plans to vote. Either use the "Feedback" link on that page to let the League know what you are hearing from your Representative, or contact Angela Carey at 503-540-6590.

Thank you in advance for your work on this critical bill for cities.

Sincerely,

Angela

Angela Carey
Legislative Assistant

League of Oregon Cities
General: 503-588-6550
Direct: 503-540-6590
Fax: 503-399-4863
<http://www.orcities.org>

3/14/2011

**CORVALLIS POLICE DEPARTMENT
MEMORANDUM**

TO: Legislative Committee

FROM: Gary Boldizar, Chief of Police



DATE: March 15, 2011

SUBJECT: HB 2712; HB2075; HB2741

House Bill 2712 (partial copy of 125 page bill attached as "A") will do several things including raise presumptive (minimum) fines for Oregon Revised Statutes and maximum fine amounts for all violations contained within the code. In most cases the fine amounts are more than doubled. Section 4 of this bill prohibits the Municipal Court Judge from deferring or reducing the presumptive fine in any way. Corvallis Municipal Court Judge Mark Donahue and staff recommend **opposing** this bill. A copy of an email from the Judge reflecting this position is attached as "B".

House Bill 2075 (attached as "C"), the 9-1-1 Pre-paid Wireless Collection bill, would insure that prepaid wireless participates in the 75 cent 9-1-1 emergency communications tax that other phone users must pay. While estimates vary, between 3 and 6 million dollars is not currently collected from this type of phone user even though they are able to access 9-1-1. The Corvallis Regional Communications Center currently receives about \$500,000 annually from the State Emergency Communications Account. Staff recommends **supporting** this bill.

House Bill 2741 (attached as "D") designates the Emergency Communications Account as a trust account exclusively for emergency communication purposes. It declares legislative intent to create a contractual obligation of the state to use this account only for emergency communication purposes and to not transfer moneys out of the account for other uses. In prior years the state has transferred moneys from this account resulting in significant cuts to funding for 9-1-1 Centers including the Corvallis Regional Communications Center. Staff recommends **supporting** this bill.

Attachments

House Bill 2712

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Joint Interim Committee on State Justice System Revenues)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Revises laws relating to offenses.
Declares emergency, effective July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to offenses; creating new provisions; amending ORS 1.178, 1.182, 25.715, 25.990, 33.075,
3 41.905, 45.900, 51.037, 83.990, 86.990, 92.990, 97.990, 97.992, 100.990, 105.590, 106.990, 131.897,
4 133.865, 135.265, 135.280, 135.905, 135.921, 137.017, 137.293, 137.300, 137.533, 137.540, 147.227,
5 151.225, 151.487, 151.505, 153.018, 153.025, 153.051, 153.061, 153.090, 153.099, 153.108, 153.624,
6 161.566, 161.568, 161.570, 161.665, 161.715, 163.575, 165.107, 165.990, 166.180, 166.300, 166.320,
7 166.330, 166.715, 167.337, 167.339, 167.808, 192.990, 198.600, 208.990, 221.315, 221.355, 221.357,
8 221.916, 240.990, 241.990, 267.990, 268.990, 279A.990, 291.990, 293.990, 305.830, 305.990, 307.990,
9 308.990, 311.990, 319.990, 320.990, 321.991, 339.925, 341.300, 346.991, 352.360, 368.990, 376.990,
10 390.050, 390.995, 398.224, 399.990, 409.304, 411.990, 414.815, 418.215, 419C.446, 419C.459, 419C.470,
11 421.990, 431.210, 432.900, 433.855, 433.990, 435.990, 441.990, 448.305, 448.990, 448.992, 448.994,
12 450.990, 460.370, 460.990, 462.405, 462.990, 466.913, 466.995, 468.140, 468.936, 468.943, 468A.580,
13 469.990, 471.410, 471.559, 471.990, 473.990, 473.992, 475.495, 475.565, 475.860, 475.864, 475.886,
14 475.888, 475.890, 475.892, 476.990, 477.985, 479.520, 496.992, 497.415, 498.153, 498.154, 498.155,
15 498.222, 498.993, 506.306, 520.991, 522.990, 527.990, 532.990, 537.990, 540.990, 541.990, 543.990,
16 547.990, 549.990, 561.150, 561.990, 565.630, 565.990, 569.390, 571.365, 576.053, 576.595, 576.991,
17 577.990, 578.990, 585.190, 585.990, 586.990, 596.990, 600.990, 602.990, 607.365, 608.990, 609.060,
18 609.990, 609.994, 610.990, 618.991, 621.991, 628.990, 632.990, 634.992, 635.991, 646.990, 646A.508,
19 646A.765, 649.990, 651.990, 652.400, 652.445, 652.990, 654.991, 656.605, 656.990, 657.515, 657.822,
20 657.990, 658.991, 659.990, 659A.990, 661.990, 671.992, 675.330, 675.337, 676.990, 679.260, 679.991,
21 683.290, 686.990, 688.160, 688.715, 688.990, 689.135, 689.995, 691.565, 695.990, 705.165, 705.642,
22 707.145, 717.235, 717.315, 723.014, 723.106, 725.145, 726.075, 726.990, 731.292, 731.992, 756.360,
23 756.990, 757.990, 759.990, 776.991, 777.990, 778.085, 778.990, 783.610, 783.990, 801.557, 802.110,
24 802.155, 809.220, 810.530, 811.109, 811.172, 811.182, 811.230, 811.235, 811.483, 811.590, 811.615,
25 811.617, 811.625, 811.627, 811.630, 813.030, 813.095, 813.240, 813.270, 814.485, 814.486, 814.534,
26 814.536, 814.600, 818.430, 823.991, 824.014, 824.992, 825.990 and 837.100 and section 2, chapter 659,
27 Oregon Laws 2009; repealing ORS 30.450, 30.830, 137.290, 137.295, 137.301, 137.308, 137.309,
28 153.093, 153.125, 153.128, 153.131, 153.134, 153.138, 153.142, 153.145, 153.630, 153.635, 153.800,
29 165.475, 165.480, 165.485, 165.490, 165.495, 165.505, 165.510, 165.515, 165.520, 221.923, 266.470,
30 376.385, 448.320, 471.670, 496.715, 496.951, 506.630, 530.900, 570.055, 570.365, 632.620, 678.168,
31 801.145 and 830.145; and declaring an emergency.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 Be It Enacted by the People of the State of Oregon:

2

3

PRESUMPTIVE FINES FOR VIOLATIONS

4

5 SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made a part of ORS chapter
6 153.

7 SECTION 2. Presumptive fines; generally. (1) Except as provided in section 3 of this 2011
8 Act, the presumptive fines for violations are:

9 (a) \$430 for a Class A violation.

10 (b) \$260 for a Class B violation.

11 (c) \$180 for a Class C violation.

12 (d) \$135 for a Class D violation.

13 (2) The presumptive fine for a specific fine violation is:

14 (a) The amount specified by statute as the presumptive fine for the violation; or

15 (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the
16 violation, or the minimum fine prescribed by statute for the violation.

17 SECTION 3. Presumptive fines; highway work zones, school zones and safety corridors.

18 (1) If an individual is charged with a traffic offense and the enforcement officer issuing the
19 citation notes on the citation that the offense occurred in a highway work zone and is sub-
20 ject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the
21 provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions
22 of ORS 811.483, the presumptive fine for the violation is:

23 (a) \$860 for a Class A violation.

24 (b) \$520 for a Class B violation.

25 (c) \$360 for a Class C violation.

26 (d) \$270 for a Class D violation.

27 (2) The presumptive fine for a specific fine violation that is subject to this section is an
28 amount equal to 40 percent of the maximum fine prescribed for the violation.

29 SECTION 4. Presumptive fine is minimum fine for violations. (1) Except as otherwise
30 provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a
31 violation that is subject to the presumptive fines established by sections 2 and 3 of this 2011
32 Act to an amount that is less than the presumptive fine.

33 (2) This section does not affect the manner in which a court imposes or reduces mone-
34 tary obligations other than fines.

35 (3) The Department of Revenue or Secretary of State may audit any court to determine
36 whether the court is complying with the requirements of this section. In addition, the De-
37 partment of Revenue or Secretary of State may audit any court to determine whether the
38 court is complying with the requirements of sections 33 to 38 and 47 to 50 of this 2011 Act.
39 The Department of Revenue or Secretary of State may file an action under ORS 34.105 to
40 34.240 to enforce the requirements of this section and of sections 33 to 38 and 47 to 50 of this
41 2011 Act.

42 SECTION 5. ORS 153.093, 153.125, 153.128, 153.131, 153.134, 153.138, 153.142 and 153.145 are
43 repealed.

44 SECTION 6. Sections 2 to 4 of this 2011 Act and the repeal of ORS 153.093, 153.125,
45 153.128, 153.131, 153.134, 153.138, 153.142 and 153.145 by section 5 of this 2011 Act apply only

1 to offenses committed on or after the effective date of this 2011 Act. Any offense committed
2 before the effective date of this 2011 Act shall continue to be governed by ORS 153.093,
3 153.125, 153.128, 153.131, 153.134, 153.138, 153.142 and 153.145 as in effect immediately before
4 the effective date of this 2011 Act.

5
6 **MAXIMUM FINES FOR VIOLATIONS**
7

8 **SECTION 7.** ORS 153.018 is amended to read:

9 153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may
10 impose other penalties in addition to a fine but may not impose a term of imprisonment.

11 (2) *[Except as provided in this section, a sentence to pay a fine for a violation shall be a sentence*
12 *to pay an amount not exceeding]* **The maximum fine for a violation committed by an individual**
13 **is:**

- 14 (a) *[\$720]* **\$2,000** for a Class A violation.
- 15 (b) *[\$360]* **\$1,000** for a Class B violation.
- 16 (c) *[\$180]* **\$500** for a Class C violation.
- 17 (d) *[\$90]* **\$250** for a Class D violation.
- 18 (e) **\$2,000 for a specific fine violation, or** the amount otherwise established by law for *[any]*
19 **the specific fine violation.**

20 (3) *[If no special corporate fine is specified in the law creating the violation, a sentence to pay a*
21 *fine for a violation committed by a corporation shall be in an amount not to exceed twice the fine es-*
22 *tablished under this section for a violation by an individual.]* If a special corporate fine is specified
23 in the law creating the violation, the sentence to pay a fine shall be governed by the law creating
24 the violation. **If a special corporate fine is not specified in the law creating the violation, the**
25 **maximum fine for a violation committed by a corporation is:**

- 26 (a) **\$4,000 for a Class A violation.**
- 27 (b) **\$2,000 for a Class B violation.**
- 28 (c) **\$1,000 for a Class C violation.**
- 29 (d) **\$500 for a Class D violation.**

30 *[(4) If a person or corporation has gained money or property through the commission of a violation,*
31 *instead of sentencing the defendant to pay the fine provided for in subsection (2) or (3) of this section,*
32 *the court may sentence the defendant to pay an amount fixed by the court, not exceeding double the*
33 *amount of the defendant's gain from the commission of the violation. For the purposes of this sub-*
34 *section, the defendant's gain is the amount of money or the value of property, as determined under ORS*
35 *164.115, derived from the commission of the violation, less the amount of money or the value of prop-*
36 *erty, as determined under ORS 164.115, returned to the victim of the violation or seized by or surren-*
37 *dered to lawful authority before the time sentence is imposed.]*

38 **SECTION 8.** The amendments to ORS 153.018 by section 7 of this 2011 Act apply only to
39 offenses committed on or after the effective date of this 2011 Act. Any offense committed
40 before the effective date of this 2011 Act shall continue to be governed by ORS 153.018 as in
41 effect immediately before the effective date of this 2011 Act.

42
43 **MINIMUM FINES FOR CRIMES**
44

45 **SECTION 9.** Section 10 of this 2011 Act is added to and made a part of ORS chapter 137.

Boldizar, Gary

From: Donahue, Mark
Sent: Friday, February 25, 2011 10:40 AM
To: Boldizar, Gary
Subject: RE: [municipaljudge] HB 2712, HB 2287, and HB 2710 SEE MY OTHER EMAIL TOO. MD

No objection, but I'll be going to a judicial conference next week and I'm sure this will be discussed (Carl Myers will be there), so hold off distributing until mid March if you can and I'll probably have something to add after our conf. MD

From: Boldizar, Gary
Sent: Friday, February 25, 2011 8:07 AM
To: Donahue, Mark
Subject: RE: [municipaljudge] HB 2712, HB 2287, and HB 2710 SEE MY OTHER EMAIL TOO. MD

Your honor....Do you have any objections to me attaching a copy of this email to the material I provide to the City Legislative Committee for the March 23rd meeting?

Gary D. Boldizar, Chief
 Corvallis Police Department
 (541) 766-6925

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient (s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Donahue, Mark
Sent: Thursday, February 24, 2011 4:15 PM
To: Boldizar, Gary
Subject: RE: [municipaljudge] HB 2712, HB 2287, and HB 2710 SEE MY OTHER EMAIL TOO. MD

I've now had a chance to review what appear to be the parts of this bill that would impact Municipal Court. I would oppose the bill as written. Section 2 sets presumptive fines for traffic citations which are about 20-26% higher than the current statutory minimum (which our court routinely applies with good driving records, and which seem too high at present levels in certain situations) and forbids (Section 4) reduction of the presumptive fine. I have not read closely enough to know whether there are additional assessments added to the p.f. Section 7 increases maximum fines for violations by almost triple! Higher fines may result in more trial requests. Section 149 repeals violation bureaus, which save judicial time and are very popular throughout the state (perhaps it is saved in another part of the legislation, but I didn't see anything). The bulk of the bill applies to issues that don't usually come before our Court, but the changes mentioned above offend both our sense of fairness and efficiency. MD

From: Boldizar, Gary
Sent: Thursday, February 24, 2011 2:45 PM
To: Donahue, Mark
Subject: RE: [municipaljudge] HB 2712, HB 2287, and HB 2710 SEE MY OTHER EMAIL TOO. MD

That would be fine. The Committee does not meet on this issue until March 23rd.

Gary D. Boldizar, Chief

ATTACHMENT "B"

3/8/2011

Corvallis Police Department

(541) 766-6925

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From: Donahue, Mark

Sent: Thursday, February 24, 2011 2:10 PM

To: Boldizar, Gary

Subject: RE: [municipaljudge] HB 2712, HB 2287, and HB 2710 SEE MY OTHER EMAIL TOO. MD

I won't have a chance to read the 120+ pages of the bill until this weekend, but based on a quick scan and reading Carl Myers' note, I would not support the bill in present form. If I can get back to you Monday with more details? Mark

From: Boldizar, Gary

Sent: Thursday, February 24, 2011 12:38 PM

To: Donahue, Mark

Subject: RE: [municipaljudge] HB 2712, HB 2287, and HB 2710 SEE MY OTHER EMAIL TOO. MD

So based upon this, can I advise the City's Legislative Committee that you too do not support the bill....or, should I be silent on that?

Gary D. Boldizar, Chief

Corvallis Police Department

(541) 766-6925

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient (s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Donahue, Mark

Sent: Thursday, February 24, 2011 12:29 PM

To: Boldizar, Gary

Subject: FW: [municipaljudge] HB 2712, HB 2287, and HB 2710 SEE MY OTHER EMAIL TOO. MD

From: Kevin J Kinney [mailto:Kinney@gckattorneys.com]

Sent: Wednesday, February 23, 2011 4:47 PM

To: Municipal Judge List Serve

Subject: [municipaljudge] HB 2712, HB 2287, and HB 2710

All:

This is from Carl Myers, our lobbyist. He asked me to send this to everyone. He cannot receive emails from anyone other than our designated contact person. If

3/8/2011

you would like to make a comment please reply to all. Thanks.

Kevin J. Kinney
McMinnville

HB 2712, the traffic fine bill, was heard yesterday by the House Judiciary Committee. There were quite a few people there to testify, all of whom voiced opposition to the bill. Most of the people testified against the parts of the bill that eliminated the dedicated funding mechanism for such things as domestic violence programs, BPSST (or whatever it is called) and the other things funded through the Unitary Assessment and the County Assessment. A few of us directed our opposition to the judicial discretion (or elimination thereof) piece of the bill; including LOC, AOC, the police chiefs and the sheriffs. You can find the audio portion of the hearing on the legislative website, if you want to hear what was said.

There was no support among the committee members for the removal of judicial discretion or the one fine fits all piece of HB 2712. There is some concern among the members that fine practices vary from court to court and that some jurisdictions add their own surcharges. However that may not be a significant problem for us. While there is sympathy for the programs that now receive dedicated funds out of traffic fines, there is concern that some state programs do not have to go through the ways and means process, particularly in these tough budget times.

I heard some talk of killing HB 2712, but continuing HB 2287 from last session (the \$45 surcharge to fund state courts). Rep. Olson is thinks about tweeking HB 2287 by revising HB 2710 (the civil fees bill), incorporating his own bill from this session (HB 3040) giving us more discretion to reduce fines down to 50% of the base fine, and possibly raising the maximum fines for violations for those violators that deserve the maximum. I am working with him on this project. HB 3040 is up for hearing on Monday and Jad and I will be there to testify. I think the bill will move out of committee as it has done in previous sessions. Its passage in ways and means depends, I think, on the rest of the package we can put together.

Pass this update along as you see fit. See you in Salishan Carl

You are currently subscribed to municipaljudge as: mark.donahue@ci.corvallis.or.us.

To unsubscribe click here: [http://list.orcities.org:81/u?](http://list.orcities.org:81/u?id=92095.f188c8c65ab1dddbed8ce98d46ec6c70&n=T&l=municipaljudge&o=195217)

[id=92095.f188c8c65ab1dddbed8ce98d46ec6c70&n=T&l=municipaljudge&o=195217](http://list.orcities.org:81/u?id=92095.f188c8c65ab1dddbed8ce98d46ec6c70&n=T&l=municipaljudge&o=195217)

(It may be necessary to cut and paste the above URL if the line is broken)

or send a blank email to leave-195217-92095.f188c8c65ab1dddbed8ce98d46ec6c70@list.orcities.org

House Bill 2075

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Military Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes alternative methods for telecommunications provider to satisfy requirement to collect and remit tax on customer access to 9-1-1 emergency reporting system from prepaid telecommunications service customers. Defines terms.

A BILL FOR AN ACT

1
2 Relating to 9-1-1 emergency reporting system; creating new provisions; and amending ORS 403.105,
3 403.135, 403.200, 403.210, 403.220, 403.225 and 403.230 and section 4, chapter 5, Oregon Laws
4 2002 (first special session).

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 403.105 is amended to read:

7 403.105. As used in ORS 305.823 and 403.105 to 403.250, unless the context requires otherwise:

8 (1) "Account" means the Emergency Communications Account **established under ORS**
9 **403.235.**

10 (2) "Central office" means a utility that houses the switching and trunking equipment serving
11 telephones in a defined area.

12 (3) "Customer" means a person that has telecommunications service with access to the
13 9-1-1 emergency reporting system through local exchange service, cellular service, fixed
14 interconnected voice over Internet protocol service or other wired or wireless means.

15 [(3)] (4) "Department" means the Department of Revenue.

16 [(4)] (5) "Emergency call" means a *[telephone]* request for service to a public safety answering
17 point that is communicated through local exchange service, cellular service, fixed intercon-
18 nected voice over Internet protocol service or other wired or wireless means and that results
19 from a situation in which prompt service is essential to preserve human life or property.

20 [(5)] (6) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a net-
21 work, database and on-premises equipment that provides automatic display of the incoming tele-
22 phone number and address in the designated public safety answering point at the time of receiving
23 an incoming 9-1-1 call.

24 [(6)] (7) "Exchange access services" means:

25 (a) Telephone exchange access lines or channels that provide local access by a *[subscriber]*
26 customer in this state to the local telecommunications network to effect the transfer of information;
27 and

28 (b) Unless a separate tariff rate is charged therefor, any facility or service provided in con-
29 nexion with the services described in paragraph (a) of this subsection.

30 (8) "Fixed interconnected voice over Internet protocol service" means a telecommuni-

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in boldfaced type.

AMENDMENT "C"

1 **cations service that utilizes an Internet protocol to enable a customer to participate in**
 2 **real-time two-way voice communication.**

3 [(7)] (9) "Governing body" means the board of county commissioners of a county, city council
 4 of a city, other governing body of a city or county, board of directors of a special district or a 9-1-1
 5 jurisdiction.

6 [(8)] (10) "Local government" has the meaning given that term in ORS 190.710.

7 (11) **"Prepaid telecommunications service" means any telecommunications service paid**
 8 **for by a customer prior to activation or use of the service.**

9 [(9)] (12) "Provider" means a utility or other vendor or supplier of telecommunications service
 10 or equipment that provides telecommunications service with access to the 9-1-1 emergency reporting
 11 system through local exchange service, cellular service, **fixed interconnected voice over Internet**
 12 **protocol service** or other wired or wireless means.

13 [(10)] (13) "Public or private safety agency" means any unit of state or local government, a
 14 special-purpose district or a private firm that provides or has authority to provide fire-fighting, po-
 15 lice, ambulance or emergency medical services.

16 [(11)] (14) "Public safety answering point" means a 24-hour communications facility established
 17 as an answering location for 9-1-1 calls originating within a given service area. A "primary public
 18 safety answering point" receives all calls directly from the public. A "secondary public safety an-
 19 swering point" [*only*] receives calls **only** from a primary public safety answering point on a transfer
 20 or relay basis.

21 [(12)] *"Subscriber" means a person who has telecommunication access to the 9-1-1 emergency re-*
 22 *porting system through local exchange service, cellular service or other wired or wireless means.]*

23 (15) **"Telecommunications" means a full duplex method of providing the ability to make**
 24 **real-time two-way voice communication initiated, received or terminated through local ex-**
 25 **change service, cellular service, fixed interconnected voice over Internet protocol service or**
 26 **other wired or wireless means.**

27 [(13)] (16) "TTY" means a telephone-typewriter used by an individual with a hearing or speech
 28 impairment to communicate with another device or individual.

29 [(14)] (17) "Utility" means a utility, as defined in ORS 759.005, a telecommunications carrier, as
 30 defined in ORS 133.721, a municipality or any provider of exchange access services.

31 [(15)] (18) "Vendor" means a person providing telephone customer premises equipment or
 32 equipment specific to the operation of enhanced 9-1-1 telephone service.

33 [(16)] (19) "9-1-1 emergency reporting system" means a telephone service that provides the users
 34 of a public telephone system the ability to reach a primary public safety answering point by calling
 35 9-1-1.

36 [(17)] (20) "9-1-1 jurisdiction" means:

- 37 (a) An entity created under ORS chapter 190;
- 38 (b) A county service district established under ORS chapter 451 to provide an emergency com-
 39 munications system;
- 40 (c) An emergency communications district created under ORS 403.300 to 403.380; or
- 41 (d) A group of public or private safety agencies [*who*] **that** have agreed in writing to jointly plan
 42 the installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

43 [(18)] (21) "9-1-1 service area" means the geographical area that contains the entire central of-
 44 fice serving area from which the primary public safety answering point will have the capability to
 45 answer calls placed to 9-1-1.

1 **SECTION 2.** ORS 403.200 is amended to read:

2 403.200. (1) There is imposed on each paying retail [*subscriber who has telecommunication ser-*
 3 *vices*] **customer that has telecommunications service** with access to the 9-1-1 emergency report-
 4 ing system a tax equal to 75 cents per month. The tax must be applied on a telecommunications
 5 circuit designated for a particular [*subscriber*] **customer**. One [*subscriber*] **customer** line must be
 6 counted for each circuit that is capable of generating usage on the line side of the **public** switched
 7 **telephone** network regardless of the quantity or ownership of customer premises equipment con-
 8 nected to each circuit.

9 (2) For providers of central office based services, the tax must be applied to each line that has
 10 unrestricted connection to the **public** switched **telephone** network. Those central office based ser-
 11 vice lines that have restricted connection to the **public** switched **telephone** network must be
 12 charged based on software design in the central office that restricts the number of station calls to
 13 and from the network. [*For cellular, wireless or other radio common carriers, the tax applies on a per*
 14 *instrument basis and only if the subscriber's*]

15 (3) **Except for prepaid telecommunications service, the tax shall be assessed on each**
 16 **customer connection for cellular, wireless, fixed interconnected voice over Internet protocol**
 17 **or other radio common carriers. The tax applies only if the customer's** place of primary use,
 18 as defined and determined under 4 U.S.C. 116 to 126, is within this state.

19 (4) **For customers that purchase prepaid telecommunications service or other customers**
 20 **that are not billed periodically for telecommunications service, the amount charged by the**
 21 **provider must include 75 cents for each monthly period during which the customer is au-**
 22 **thorized to access the prepaid telecommunications service. A provider is deemed to have met**
 23 **its obligation to collect the tax if the provider collects and remits the tax using one of the**
 24 **following options:**

25 (a) **On a monthly basis, the provider shall collect an amount equal to the tax from each**
 26 **active prepaid telecommunications service customer that is authorized to access the service**
 27 **and whose account balance is equal to or greater than the tax; or**

28 (b) **If the provider cannot determine with reasonable specificity the number of prepaid**
 29 **telecommunications service customers that are authorized to access the service, the pro-**
 30 **vider shall determine, on a monthly basis, the number of prepaid telecommunications service**
 31 **customers by dividing the provider's total intrastate monthly income from prepaid telecom-**
 32 **munications service customers by the average income from each prepaid telecommunications**
 33 **service customer of the national prepaid telecommunications service industry and multiply**
 34 **the calculated number of prepaid telecommunications service customers by the amount of**
 35 **the tax.**

36 [(2)] (5) The [*subscriber*] **customer** is liable for the tax imposed by this section.

37 [(3)] (6) The amounts of tax collected by the provider are considered as payment by the [*sub-*
 38 *scriber*] **customer** for that amount of tax.

39 [(4)] (7) Any return made by the provider collecting the tax must be accepted by the Department
 40 of Revenue as evidence of payments by the [*subscriber*] **customer** of amounts of tax so indicated
 41 upon the return.

42 **SECTION 3.** Section 4, chapter 5, Oregon Laws 2002 (first special session), as amended by sec-
 43 tion 1, chapter 4, Oregon Laws 2002 (third special session), and section 1, chapter 629, Oregon Laws
 44 2007, is amended to read:

45 **Sec. 4.** [(1)] Taxes imposed under ORS [401.792] **403.200** apply to [*subscriber*] **customer** bills is-

1 sued on or after January 1, 2002, and before January 1, 2014.

2 [(2) Taxes imposed under ORS 401.792 on or after January 1, 2002, and before May 13, 2002, are
3 due and payable by the subscriber to the provider on or before 20 days after the first day of the month
4 following May 13, 2002. Taxes that are not paid by the subscriber to the provider within the time re-
5 quired shall bear interest at the rate established under ORS 305.220 for each month, or fraction of a
6 month, from the date that is 20 days after the first day of the month following May 13, 2002, until
7 paid.]

8 [(3) Unless previously remitted, taxes that are paid to the provider under subsection (2) of this
9 section shall be remitted by the provider to the Department of Revenue at the time and in the same
10 manner as taxes imposed under ORS 401.792 for the first month following May 13, 2002, are remitted
11 to the department.]

12 **SECTION 4.** ORS 403.135 is amended to read:

13 403.135. (1) Each telecommunications utility that provides exchange access service or radio
14 communications service and that provides automatic telephone number identification to public safety
15 answering points may not block the number of the calling party from being forwarded on 9-1-1 calls.

16 (2) Automatic telephone number identifications received by public safety answering points are
17 confidential and are not subject to public disclosure unless and until an official report is written
18 by the public or private safety agency and that agency does not withhold the telephone number
19 under ORS 192.410 to 192.505 or other state and federal laws. The official report of a public safety
20 answering point may not include nonpublished or nonlisted telephone numbers. The official report
21 of a public or private safety agency may not include nonpublished or nonlisted telephone numbers.
22 Nonpublished or nonlisted telephone numbers are not otherwise subject to public disclosure without
23 the permission of the [subscriber] **customer**.

24 (3) A telecommunications utility is not subject to an action for civil damages for providing in
25 good faith confidential or nonpublic information, including nonpublished and nonlisted [subscriber]
26 **customer** information, to emergency services providers who are responding to emergency calls
27 placed to a 9-1-1 or an enhanced 9-1-1 emergency reporting system or notifying the public of an
28 emergency. This subsection does not compel a telecommunications utility to provide nonpublished
29 and nonlisted [subscriber] **customer** information directly to emergency services providers or law
30 enforcement agencies prior to placement of an emergency call to a 9-1-1 or an enhanced 9-1-1
31 emergency reporting system without process of law. [Subscriber] **Customer** information acquired by
32 a 9-1-1 jurisdiction for the purpose of enhancing a 9-1-1 emergency reporting system is not subject
33 to public disclosure and may not be used by other public agencies except:

34 (a) To respond to a 9-1-1 call; or

35 (b) To notify the public of an emergency by utilizing an automated telephone notification system
36 if a telecommunications utility has provided [subscriber] **customer** information to the 9-1-1 juris-
37 diction or emergency services provider.

38 **SECTION 5.** ORS 403.210 is amended to read:

39 403.210. Every provider [responsible for the collection of] **required to collect** the tax imposed by
40 ORS 403.200 to 403.230 shall keep records, render statements, make returns and comply with rules
41 adopted by the Department of Revenue with respect to the tax. Whenever in the judgment of the
42 department it is necessary, the department may require the provider or [subscriber] **customer**, by
43 notice served upon that person by first-class mail, to make returns, render statements or keep re-
44 cords sufficient to show whether there is tax liability under ORS 403.200 to 403.230.

45 **SECTION 6.** ORS 403.220 is amended to read:

1 403.220. (1) If the amount paid by the provider to the Department of Revenue under ORS 403.215
 2 exceeds the amount of tax payable, the department shall refund the amount of the excess with in-
 3 terest thereon at the rate established under ORS 305.220 for each month or fraction of a month from
 4 the date of payment of the excess until the date of the refund. The department may not make a re-
 5 fund to a provider [*who*] **that** fails to claim the refund within two years after the due date for filing
 6 of the return with respect to which the claim for refund relates.

7 (2) A [*subscriber's*] **customer's** exclusive remedy in a dispute involving tax liability is to file a
 8 claim with the department.

9 **SECTION 7.** ORS 403.225 is amended to read:

10 403.225. (1) Every provider required to collect the tax imposed by ORS 403.200 to 403.230 is
 11 deemed to hold the same in trust for the State of Oregon and for the payment thereof to the De-
 12 partment of Revenue in the manner and at the time provided by ORS 403.215.

13 (2) If the provider required to collect the tax fails to remit any amount deemed to be held in
 14 trust for the State of Oregon or if the [*subscriber*] **customer** fails to pay the tax, the department
 15 may enforce collection by the issuance of a distraint warrant for the collection of the delinquent
 16 amount and all penalties, interest and collection charges accrued thereon. The warrant is issued and
 17 proceeded upon in the same manner and has the same force and effect as is prescribed with respect
 18 to warrants for the collection of delinquent income taxes.

19 **SECTION 8.** ORS 403.230 is amended to read:

20 403.230. (1) Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and
 21 316 as to the audit and examination of reports and returns, determination of deficiencies, assess-
 22 ments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and ap-
 23 peals to the Oregon Tax Court, and procedures relating thereto, apply to ORS 403.200 to 403.230 the
 24 same as if the tax were a tax imposed upon or measured by net income. The provisions apply to the
 25 [*subscriber*] **customer** liable for the tax and to the provider required to collect the tax. As to any
 26 amount collected and required to be remitted to the Department of Revenue, the tax is considered
 27 a tax upon the provider required to collect the tax and that provider is considered a taxpayer.

28 (2) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose infor-
 29 mation received under ORS 403.200 to 403.230 to the Public Utility Commission to carry out the
 30 provisions of chapter 290, Oregon Laws 1987.

31 (3) The Public Utility Commission may disclose information obtained pursuant to chapter 290,
 32 Oregon Laws 1987, to the Department of Revenue to administer the tax imposed under ORS 403.200
 33 to 403.230.

34 **SECTION 9.** The amendments to ORS 403.105, 403.135, 403.200, 403.210, 403.220, 403.225 and
 35 403.230 and section 4, chapter 5, Oregon Laws 2002 (first special session), by sections 1 to 8
 36 of this 2011 Act apply to monthly periods of telecommunications service that begin on or
 37 after the effective date of this 2011 Act.

38

House Bill 2741

Sponsored by Representative BOONE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Designates Emergency Communications Account as trust account exclusively for emergency communication purposes. Declares legislative intent to create contractual obligation of state to use moneys only for emergency communication purposes and to not transfer moneys out of account for other uses.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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Relating to the Emergency Communications Account; creating new provisions; amending ORS 403.235; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 403.235 is amended to read:

403.235. (1) The Emergency Communications Account is established separate and distinct from the General Fund in the State Treasury. All moneys received by the Department of Revenue pursuant to ORS 403.200 to 403.230 and interest thereon must be paid to the State Treasurer to be held in a suspense account established under ORS 293.445. After payment of refunds, the balance of the moneys received must be paid into the State Treasury and credited to the Emergency Communications Account. All moneys in the account are continuously appropriated to the Office of Emergency Management and must be used for the purposes described in ORS 403.240.

(2) The Enhanced 9-1-1 Subaccount is established as a subaccount of the Emergency Communications Account. Thirty-five percent of the amount in the Emergency Communications Account on the date of distribution must be credited to the Enhanced 9-1-1 Subaccount. All moneys in the account are continuously appropriated to the Office of Emergency Management and must be used for the purposes described in ORS 403.240 (3), (4) and (5).

(3) The Emergency Communications Account is a trust account exclusively for the uses and purposes declared in ORS 403.240. The State of Oregon declares that it has no proprietary interest in the Emergency Communications Account and disclaims any right to claim contributions made to the account from sources other than the General Fund. The Legislative Assembly unambiguously expresses an intention to create a contractual obligation of the state to subscribers to use the moneys in the account only for the purposes declared in ORS 403.240 and commits to not transfer the moneys in the account to any other fund or account to be used for other purposes. This subsection does not impair the force or effect of any law of this state specifically authorizing the investment of moneys from the account.

SECTION 2. The amendments to ORS 403.235 by section 1 of this 2011 Act apply to moneys deposited in the Emergency Communications Account on or after the effective date of this 2011 Act.

SECTION 3. This 2011 Act being necessary for the immediate preservation of the public

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in boldfaced type.

ATTACHMENT "D"

1 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
2 on its passage.

3

RESOLUTION 2011-_____

Minutes of the April 4, 2011, Corvallis City Council meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS, single-use plastic bags are difficult to recycle and frequently contaminate material that is collected in the City's curbside recycling programs; and

WHEREAS, recycled content paper checkout bags are a high value recyclable collected in the City's curbside recycling program and are made in paper mills located in the region; while papermaking has environmental impacts, paper bags that are made with 40 percent or more recycled fiber provide a positive alternative to plastic bags; and

WHEREAS, reusable bags are the best option to reduce waste and litter, protect wildlife, and conserve resources; and

WHEREAS, it is in the public interest for the Oregon Legislature to provide statewide regulation of single-use checkout bags; and

WHEREAS, enactment of such legislation will reduce waste and promote sustainability in Oregon; and

WHEREAS, the Corvallis City Council has previously expressed support for the Community Sustainability Action Plan which includes encouraging reusable food bags and restricting plastic bags; and

WHEREAS, the Corvallis City Council's Community Sustainability Policy includes the goals of using resources efficiently, reducing demand for natural resources (such as energy, land, and water) as a first alternative to expanding supply and preventing additional pollution through planned, proactive measures, rather than only corrective action, focusing on solutions, rather than symptoms.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES

Section 1. The City Council supports passage of a bill by the 2011 Legislature as follows:

- a. Prohibiting the use of single-use plastic and non-recycled paper checkout bags at all retail stores;
- b. Allowing retail stores to use paper checkout bags containing at least 40% recycled fiber; and
- c. Allowing retail stores to provide reusable bags to the customer either at no cost or for sale.

Section 2. In the event that the 2011 Legislature does not adopt legislation with provisions substantially similar to those listed in Section 1 of this resolution, the City Council may consider enacting a local ordinance regulating single-use plastic and non-recycled paper checkout bags, including prohibiting such bags, mandating recycling of such bags or other restriction methods.

Section 3. This Resolution shall take effect upon passage.

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted, and the Mayor thereupon declared said resolution to be adopted.

community's trust of the organization. He said UWBLC is establishing an organization focused on meeting community needs while creating stronger working relationships and partnerships with other agencies serving the community.

Jennifer Moore, UWBLC Executive Director, reported that the Finance Committee is evaluating all activities related to the organization's operating budget. The UWBLC Board is seeking other opportunities to reduce expenses, including renegotiating contracts with vendors. UWBLC now has a total of 2.5 full-time-equivalent employees for the Corvallis and Newport offices. The Finance Committee is continually monitoring the UWBLC budget and cash flow and is reviewing financial policies.

Ms. Moore announced that Mr. Arthenayake will serve a second term as UWBLC Board President. Julee Conway is UWBLC Board President-elect and will serve as President during 2008-2009. The UWBLC Board completed an organizational self-assessment and reviewed United Way of America Accountability Standards. UWBLC complies with all the Standards and received an updated membership status for 2007. UWBLC is drafting a Code of Ethics and is reviewing the organization's strategic plan and Family Fund requests. She noted that funds raised in each county are allocated within the respective county. The 2007 granting cycle is underway in Lincoln County. Over the next two months the Board will review how its goals for this year correlate with the organization's strategic plan and actions necessary to meet the goals. UWBLC is seeking additional collaboration opportunities with partner agencies. She announced that UWBLC is seeking volunteers for the Board and various committees.

Ms. Moore announced that United Way's Day of Caring event will be held September 14th. Businesses are organizing their employees for volunteer projects. She has 394 volunteers scheduled to complete approximately 40 projects within the community, and she can accommodate more volunteers.

In response to Councilor Grosch's inquiry, Ms. Moore said Day of Caring is the kick-off event for the 2007 campaign. UWBLC is contacting company officials and is re-establishing relations with businesses. The campaign will continue through Christmas.

Jesse Marley, 637 NW 15th Street, said he is trying to discourage the use of plastic shopping bags after noticing a lot of plastic bags on sidewalks and roadways. He investigated the issue and learned that other communities (San Francisco, California; Boston, Massachusetts; and Austin, Texas) implemented or investigated taxing or banning plastic bags; Portland, Oregon, is investigating similar action. He met with Mayor Tomlinson to discuss his idea. Plastic bags occupy space in land fills, pollute land, and kill animals that eat the bags; and the manufacturing process pollutes air and water. He submitted a petition with approximately 500 signatures asking the Council to consider taxing or banning plastic bags.

Councilor Brown suggested that Jesse contact the Corvallis Sustainability Coalition regarding his proposal.

In response to Councilor Daniels' comment, Jesse noted that the League of Women Voters assisted him with the petition.



Councilor Grosch suggested that Jesse ask groups to present proposals for the Council to forward the issue to voters for approval of a tax or ban on plastic bags. A determination would be needed regarding the use of tax revenue, such as funding community-wide sustainability efforts. If voters rejected such a measure, the Council would need to decide whether to enact legislation administratively.

Carolyn Ver Linden, 644 SW Fifth Street, noted that the appeal of the Council's decision regarding a land use application involving the Whiteside Theater is before the Oregon Land Use Board of Appeals. If the Council's decision is remanded for further consideration, she asked that the Council consider the issue during an open, evening meeting with clear notification to the public of the meeting date and time.

Councilor York asked that staff report to the Council regarding the options available for responding to Jesse Marley's proposal of a tax or ban on plastic bags and whether a public vote would be necessary.

Councilor Daniels suggested that community grocery store managers be asked to meet to discuss suggestions regarding the issue of plastic bags. She noted that Jesse Marley's proposal involves discouraging or minimizing the use of plastic bags, rather than punishing people for using the bags.

Because there were no other citizens in attendance desiring to speak to the Council under Visitors' Propositions, and the public hearing was advertised to begin at 7:30 pm, Mayor Tomlinson recessed the meeting from 7: 20 pm until 7:30 pm.

VII. PUBLIC HEARINGS

- A. A public hearing to consider an appeal of a Planning Commission decision (SUB06-00008 – Cascade Crest)

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

Declaration of Conflicts of Interest – None.

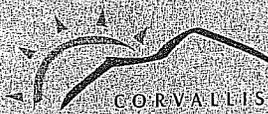
Declaration of Ex Parte Contacts

Councilor Brown declared that he is Council Liaison to the Planning Commission and attended the Commission's public hearing of the subject application. The information presented at the Commission's public hearing was included in the public record forwarded to the Council and will not bias his opinion. He declared that he can make an objective decision.

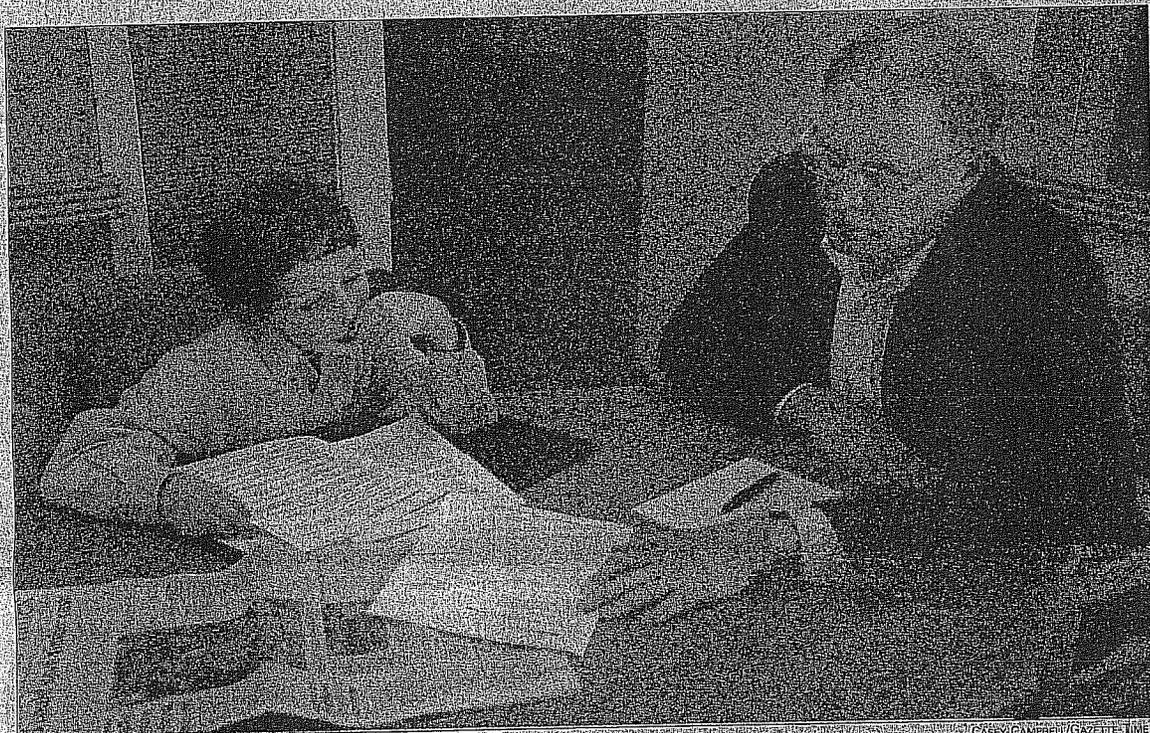
Rebuttal to Declaration of Ex Parte Contacts – None.

Declaration of Site Visits

Councilors Brown, Wershow, York, Hamby, and Zimbrick declared making site visits.



Boy makes pitch for plastic bag tax



CASEY CAMPBELL/GAZETTE-TIMES

Eight-year-old Jesse Marley shares his plan for reducing the use of plastic bags in Corvallis with Mayor Charlie Tomlinson on Tuesday.

Eight-year-old's proposal seems in line with Corvallis' goal of sustainability

4-1-07

BY HYLE ODEGARD

CORVALLIS GAZETTE-TIMES

On a normal spring-break afternoon, most third-graders would be playing video games, watching cartoons or tossing a baseball around.

But that's not what Jesse Marley was doing on Tuesday. He was lobbying Corvallis Mayor Charlie Tomlinson.

The 8-year-old, who rode his bike to City Hall with his mom, wants shoppers to pay a quarter for every new plastic grocery bag they use.

His dad helped him with the idea, but Jesse plans to circulate a petition, gather signatures and turn them in to the city.

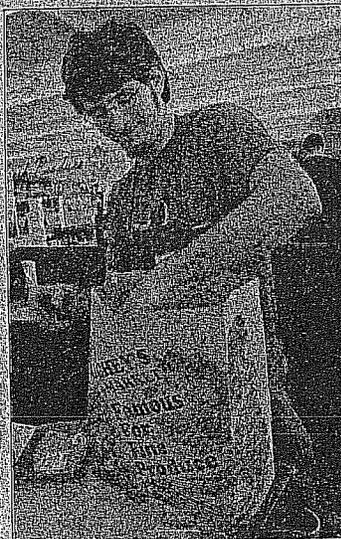
"I thought it would be fun and it would be better for the environment," Jesse said. Such a mandate also would discourage littering and encourage recycling, he said.

It was a heartwarming scene featuring a kid with some serious moxie. But Tomlinson wasn't listening, just for kicks.

"One of the goals of the City Council is to make Corvallis more sustainable," Tomlinson told his young visitor. And that could include both gentle encouragement and legislative acts, he said after the meeting.

A plastic bag tax might seem like an April Fool's Day joke to some, but it isn't so far-fetched. Last week, San Francisco passed an ordinance to outlaw plastic checkout bags. It also recently banned Styrofoam food containers at restaurants, according to the Associated Press.

Ireland and other nations have either taxed or banned plastic grocery bags, which usually are made out of petroleum products.



DAVID BAILEY

19, loads groceries into a paper bag Thursday afternoon at Richey's Market. Bailey said that between 85 and 90 percent of the customers he works with choose paper.

ANDY CRIFE/GAZETTE-TIMES

See PLASTIC on A6

Plastic

Continued from A1

Any action along those lines in Corvallis is still probably some time off, though.

Tomlinson said the City Council is considering a community forum on sustainability where residents and organizations can make recommendations, similar to the town hall approach taken by the Economic Vitality Partnership in creating the "Prosperity That Fits" plan, which included lots of citizen input.

The process could be complete by December 2008, he said.

"Obviously, we live in a community that's very interested in sustainability," said Mary Steckel, administrative division manager for the Corvallis Public Works Department.

Need proof? The city is the only one on the West Coast recognized as a green power community by the U.S. Environmental Protection Agency, a distinction based on the amount of windmill and geothermal energy purchased.

Corvallis ranks third on Country Home magazine's 2007 Best Green Places list. Per capita, Corvallis has more people who bike to work than anywhere else, according to the magazine.

"There's been more and more pressure for the city to take a stand," Steckel said.

In 2005 the City Council adopted sustainability as a goal, and in January 2006 it accepted a report on how to achieve it. Developing a communitywide sustainability initiative is one of the council's goals for 2007-2008.

So far, the efforts have been mostly internal.

Buses and Public Works machines run on biodiesel, the city is buying hybrid cars for its fleet, employees are trying to eliminate paper waste, light fixtures have been upgraded and other building improvements have been made, Steckel said.

Solar power also is being considered, she added.

One of the most notable efforts, however, is the hiring of Linda Lovett, the city's new sustainability supervisor, at about \$55,000

per year. One goal for the Public Works Department is for Lovett to find enough savings through sustainability to pay her salary.

Lovett, 47, left a higher-paying job at Hewlett-Packard to lead the city's efforts, and she's a true believer in sustainability. Often, she says, the right thing to do for the environment also helps the bottom line.

Take biodiesel, for example. "When you see these skyrocketing gas prices, is there any question that, over time, you'll save more?" Lovett said.

The people's choice

Corvallis officials point to pedestrian-friendly planning, numerous bike lanes and the local bus system as examples of government promoting sustainability.

But a plastic bag tax would be a much different creature. San Francisco's ban is generating a good deal of controversy, and California grocers vigorously opposed a previous bag tax plan.

On the other hand, Corvallis stores might not be affected much. Cashiers at Richey's Market said 80 to 90 percent of customers there already opt for paper bags.

A worker at a chain grocery store in Corvallis, who asked not to be identified because of the company's policy, also said Corvallis customers often choose paper.

Jesse, too, thinks paper bags are better than plastic.

"They are recyclable, and you can use recycled paper to make them. And if they happen to blow away or somebody litters them, they only take a week or two to biodegrade," he said.

But there's an even better option than paper bags, Jesse said. He really hopes shoppers bring cloth bags to the grocery store.

"We have some that we've had for years, and they're still perfectly functional," Jesse said.

Albertson's, recognizing consumer values, now sells 99-cent cloth bags at its stores, said spokeswoman Donna Eggers.

That's a good start as far as young Jesse is concerned. "I'm trying to encourage people to use the cloth bags," he said.

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Louise Marquering
1640 NW Woodland Drive
Corvallis, OR 97330
October 15, 2007

To the Corvallis City Council

• **Plastic Bag concerns**

 I applaud your encouragement of Jesse Marley's proposal towards eliminating the use of plastic grocery bags. I agree with Councilor Daniels that businesses need to be part of the discussion. I think the City should find a way to support all businesses in their efforts to reduce waste.

Corvallis should consider what is done in many places in Europe. Customers are expected to bring their own bags. It is just be about plastic grocery bags. If any business has to supply the customer with a plastic or paper bag, the business charges the customer for that bag. The cost of the bags is already part of doing business and incorporated into the price of items the customer purchases. This would just be a way of making the customers aware of what they are paying for.

I am curious as to where in the process Jesse's proposal is at this time.

• **Doggie waste bags**

Providing bags for scooping up dog waste is great. Where does that waste go after being deposited in the cans provided? Are the bags are decomposing type plastic? There are doggie clean-up bags that decompose in moisture. Corvallis should consider using those type of bags as one of its internal sustainable practices. There are some types of plastic bags that decompose in sunlight and some that decompose in moisture without light.

• **Food Waste Collection**

Allied Waste has said they are looking into collection of food waste. If San Francisco can do it, certainly Corvallis should be able to recycle food waste. I think City Council should start looking at options for food waste recycling as soon as possible. It should not be whether Allied Waste wants to do it or not, but it should be required by a sustainable community.

• **Allied Waste**

Rate Increase for additional containers.

Where will we store these containers? The red boxes fit inside our garage. The big one will not. With the new land use code allowing attached homes or homes with very narrow spaces between them where will these additional containers go? Have you thought of it terms of our land use code?

Where should these containers be placed for pick up? Should they be in the street, on the grass strip, or on the side walk. Our street has no grass strip and the containers block the sidewalk. It becomes an obstacle course on garbage collection day. For parents with strollers or disabled people it becomes impassable.

I do like the fact that the containers will have lids and so paper will not be blowing around on the street.

Are the containers that Allied Waste wants to purchase made of recycled materials?

I was very discouraged to learn that all the plastic we "recycle" is actually shipped to China. Does anyone know how it is used there? Before the rate increase is approved, I want to know if it is worth spending the money to collect all this plastic. What really happens to it? I do not think that shipping my waste to China is a particularly sustainable environmental practice.

As we recycle more should our actual garbage rates go down? Is there some way of motivated customers to recycle more by lowering the cost of the garbage container even while the rates for the various recycle containers go up?

2. First Quarter Operating Report

Councilor York reported that revenue receipts are lower than projected because of a delay in property tax receipts. Expenditures are consistent with the budget and historic activity.

Councilors York and Brown, respectively, moved and seconded to accept the first quarter operating report for Fiscal Year 2007-2008. The motion passed unanimously.

3. Plastic Shopping Bags and Polystyrene Food Packaging Ban Deliberations

Councilor York reported that the Committee received extensive testimony during the previous meeting but deferred deliberations until the information could be reviewed. The Committee recommended that the Council defer taking action on individual components of the solid waste issue, pending the results of the Corvallis Sustainability Coalition's (CSC) comprehensive initiative. He requested Council concurrence with the Committee's recommendation.

Councilor Brown, as Council Liaison to the CSC, reported that the Committee chose to defer dealing with each sustainability suggestion until the CSC prepares a comprehensive plan for the Council's approval. He anticipated that the plan would be action oriented to implement the "2020 Vision Statement." He encouraged Council discussion of the proposal, noting that the Council will be asked to develop a memorandum of understanding (MOU) regarding the CSC's work.

Councilor Brown referenced from the meeting packet his memoranda regarding the issue, which includes criteria for evaluating the CSC's anticipated plan. He requested Council guidance regarding taking specific action and developing a MOU.

Councilor Brown said the CSC proposed three town hall meetings, supplemented by a scientific survey, similar to the Citizen Attitude Survey. The plan development should be clear and understandable and should encourage community participation. He suggested that the CSC could conduct the town hall meetings, guide the scientific survey, and produce the final plan with assistance from hired consultants and input from the Council. He urged the Council to utilize the services of the International Council for Local Environmental Initiatives (ICLEI), which is a consulting organization that deals with measurements and indicators for environmental issues. He believes the CSC is the proper organization to coordinate development of the community sustainability initiative plan, with assistance from a hired consultant, which the City will help finance. The Council will help develop the process and the final plan.

Councilor Brauner noted that the CSC's proposed budget includes funding for a consultant and a scientific survey. He inquired about the Council's involvement in selecting a consultant.

Councilor Brown responded that he and Councilor Daniels, as members of the CSC, would participate in the consultant selection process, thereby expediting Council approval of the contractor selection

Councilor Brown stated that the Council set aside \$20,000 last year for the community sustainability initiative. The CSC's draft budget totals \$64,000. The Council must decide about additional funding to the CSC. He noted that the Council just agreed to present the CSC's funding request to the Budget Commission as a budget enhancement. He added that the previous City allocation of \$20,000 would not be enough to complete the CSC's work. He recommended that total costs be determined and budgeted to support the project.

Councilor Brauner summarized that the CSC budget included the \$20,000 City allocation from Fiscal Year 2007-2008 and the anticipated \$20,000 budget enhancement in Fiscal Year 2008-2009, plus \$22,000 from fund raising (grants, donations, and sponsorships). He cautioned the Council to be sure that another City \$20,000 allocation would be adequate and to seek opportunities to assist the CSC in obtaining grants and donations to complete the project funding. He further cautioned that the Council may need to consider allocating more than \$20,000 during Fiscal Year 2008-2009.

Councilor Daniels commented that the City is a signatory party to the ICLEI Cities for Climate Protection program, enabling the City to access services and grants available through ICLEI.

Councilor Beilstein questioned the relationship between the City and the CSC, specifically, whether the CSC is a contractor for the City or whether the City is a member of the CSC. The relationship can determine whether the City is partially or entirely responsible for the CSC's funding. He cautioned the Council about indicating that the CSC must have a work plan and activity schedule in order for the City to remain involved in the CSC's initiative. He does not want to define the City/CSC relationship in a manner that is offensive or damaging and makes the CSC subordinate to the City.

Councilor Brown responded that the CSC would ask the Council for a MOU regarding the relationship between the Council and the CSC. He reported that he and Mayor Tomlinson met with ICLEI representatives during the Mayors' Climate Summit. He opined that ICLEI had good information. He will ask the Council to approve \$1,000 for the CSC's membership in ICLEI.

Councilor Brown observed that the Council established a goal for the term of beginning development of the community sustainability plan at the end of 2008; the CSC would like to begin the development process immediately, with completion targeted for the end of 2008.

Councilor York interpreted that the CSC planned to have a completed plan by the end of 2008, which may require City action for implementation of some aspects, beginning the end of 2008. He could support beginning plan development now.

Councilor Brauner concurred with Councilor Brown. He opined that the CSC's schedule was ambitious. He would like the completed plan adopted by the end of the current Council term.

Councilor York summarized that the Committee recommended postponing action until the CSC develops a comprehensive community sustainability plan.

At Councilor Daniels' request, Councilor York suggested that individual sustainability requests and suggestions be referred to the Council Liaison to the CSC for reference, monitoring, and consideration in developing the comprehensive community sustainability plan.

Councilor Daniels noted that three chain grocery stores in Corvallis (Safeway, Fred Meyer, and WinCo Foods) and First Alternative Co-Operative sell reusable canvas bags and discourage or charge for use of plastic bags.

4. Committee Chair Assignment

Councilor York announced that Councilor Brown would serve as Committee Chair January through April, and Councilor York would serve as Committee Chair May through August, at which time the individual elected to fill the unexpired term for Ward 7 would assume the Chair responsibilities for September through December.

C. Urban Services Committee – December 20, 2007

1. Sidewalk Cafés Delineation

Councilor Hamby reported that staff presented sidewalk café delineation guideline options and proposed a period of 30 to 60 days to phase in the new guidelines. Staff is developing an informational brochure for business owners interested in having cafés.

This issue was presented for information only.

2. Council Policy on Neighborhood Traffic Calming Program

Councilor Hamby reported that staff presented a draft Council Policy based upon the Neighborhood Traffic Calming Program. The Committee recommended Policy amendments, and staff will present a revised Policy at the next Committee meeting.

This issue was presented for information only.

3. Gravel Roads/Street Fund Review

Councilor Hamby reported that a citizens requested that the City maintain SW 71st Street, which is a gravel street within the City Limits. Maintenance of gravel streets was among the services discontinued several years ago. Staff presented to the Committee a list of transportation-related services discontinued or curtailed during

Councilor Beilstein said he is not sure what is meant by “policy” since the City has committed to the Oregon Natural Step Network (ONSN) criteria.

Councilor Brown said Council is regulated by many different policies that are broad statements of how the City should behave in specific circumstances. He quoted sections of Council Policy 04-1.08, “Organizational Sustainability,” and said developing policies related to the action items could include expanding the purchasing policy, a statement of agreement, or something more comprehensive.

Councilor Hirsch clarified that when he spoke about education, he meant the community-at-large. The Plan does not include marketing to the community. He stressed the importance of including marketing to respond to needed community education.

In response to Councilor Hirsch’s request to add an action item to the matrix, Mayor Tomlinson said Councilors can advocate for additional items prior to voting.

Councilor Raymond agreed that the Plan is overwhelming and opined that the City can do better than what is listed on the matrix. She expressed concern that Councilors can only choose five items.

Mayor Tomlinson responded that the goal is to determine a workable number of action items for the next two years. Council can agree to have more than five choices.

3. City Council discussion and selection of action items

Councilor Brown explained the columns of the matrix:

- Goal/Strategy/Action – Action items suggested by at least one Councilor.
- Economic, Environmental, Social – Where each action item fits in the triple-bottom-line.
- Comp Plan Category – If/Where action items relate to the Corvallis Comprehensive Plan.
- 2020 Vision Category – If/Where action items relate to the 2020 Vision Statement.
- ICLEI Climate Action – If/Where items relate to ICLEI categories.
- City Org. Goal – Action items related to City organizational goals.

Councilor Brown explained the compilation of Councilors’ sustainability ideas he submitted (Attachment A) and the items he added.

The Councilors further defined and advocated for action items:

Support “Buy Local First”

Councilor Beilstein: The goal should include encouraging local options for purchasing; e.g., substitutes for imports. City sponsorship of the Business Enterprise Center (BEC) activities is an example of buy local strategies.

Councilor Brauner: This item relates environmentally as it avoids shipping around the world.

Councilor Raymond: The CSC focus includes a buy local goal, strategy, and action items. This goal is partially being met and support should include other partners such as the Chamber Coalition. The City's Web site could include information to promote buying locally.

Councilor O'Brien: The City supports this goal by recently approving a new location and time for the Wednesday Farmers' Market. Part of the action is to "support business retention" which was removed from the matrix. This is a piece of the economic puzzle that is not strongly asserted. "Local" should be better defined. Buying a vehicle from a local dealer is different than buying a hand-made rug.

Councilor Hervey suggested comments on each action item be limited to the Councilor requesting the action.

Create Agricultural BEC

Councilor Hervey: There is a growing movement for locally grown food. This is mostly provided by small organic farmers functioning on tight budgets to survive. A program similar to the BEC could help them develop more viable farms with a value added product. This item impacts the environment (reducing toxins) and social issues (linking local growers to local buyers). This is a long-term planning item. Ten Rivers Food Web has been discussing this idea with local farmers.

Localize Renewable Energy Revenue

Mayor Tomlinson: The Environmental Protection Agency (EPA) estimates Corvallis purchases 100,000,000 kilowatt hours of renewable energy each year. That represents a potential local revenue stream of more than \$1 million per year that flows out of Corvallis in the form of renewable energy purchasing. A portion of that revenue could be diverted locally to fund projects.

Green Construction Job Training

Councilor Daniels: The community has job training opportunities for weatherization. The organizations providing training calibrate opportunities with need. Other than laid-off Hewlett-Packard employees, the largest local unemployed population is from building trades; electricians, plumbers, carpenters, etc. All of these individuals would benefit themselves and the community by learning about residential solar installation and other green building trades. Goals the City should support include reducing the carbon footprint and encouraging alternative forms of energy. It is apparent that the community supports conservation. To promote green building practices in the community, local training must be available. As written, this item can be removed from the matrix because the City does not provide training. It was listed only as an example of why the City should support energy goals. The action item, Change LDC/LEED, relates to promoting green building practices in the community. Training organizations will respond if the City adopts actions and goals supporting conservation and alternative energy.

Convert Farmable Land and Encourage Low Income Community Gardens

Councilor Hervey: Current community gardens are located at Bruce Starker Arts and Avery Parks, and there are a number of residents in South Corvallis sharing produce from their own gardens. The idea is to expand the current program to include training and assistance by Master Gardeners and coordinate a link between those willing and skilled to develop gardens with private property owners willing to provide land (or City-owned land).

Councilor Beilstein: Gardens need to be located within neighborhoods throughout the City. Current gardens are located away from residential areas.

Councilor Hirsch: There could be a City-wide initiative encouraging the replacement of front lawns with local food production.

Use Bikes for Transportation and Bicycle Boulevards

Councilor Beilstein: The community cannot address sustainability unless dependence on petroleum is addressed. There is an obvious economic benefit. The community easily spends \$100,000,000 annually on petroleum products. A bicycle boulevard is a major initiative that could disrupt a lot of the community. It involves roadways specifically designated for bicycles only. Two north/south and east/west routes would promote the use of bicycles and provide a substitute for vehicle transportation.

Reduce Gas-Power Auto Trips

Councilor Hervey: Besides bicycles, other alternative transportation reduces petroleum usage, such as electric cars and transit. Any way to reduce automobile trips strongly supports economic and environment goals.

Free Transit

Councilor Brauner: Increasing the availability of transit is needed to support additional ridership. Free transit may be a long-term goal. Exploring ways to build better subsidies into the transit system to increase routes would decrease the use of automobiles and petroleum products.

Councilor Daniels: Support for more use of bicycles and transit could be consolidated into one action item.

Hybrid Cars

Mayor Tomlinson: Plug-in hybrid electric vehicles are in the near future. Charging stations and smart meters need to be provided.

Renewable Energy Utility Fee

Mayor Tomlinson: The PUC allows municipalities to place renewable energy fees on utility bills. Participation in renewable energy is 13 to 15 percent. A utility bill could be used as a renewable energy billing mechanism to create a revenue stream for other Plan items. Details could be worked out related to whether the fee would be required or have opt-out options.

Change LDC/LEED and Green Building Standards

Councilor Beilstein: To accomplish these items requires changes to the LDC. Although Council would most likely support these items, this would add to the current backlog of land use activities supported by the Planning Division.

Promote Alternative Sewer Technology (Gray Water)

Councilor Hervey: This includes gray water, composting toilets, and living machines. Reusing gray water is another way to conserve water and lower the load on the wastewater plant. Removing barriers to composting toilets, living machines, and reusing gray water are ecological benefits.

Progressive Waste Fees

Mayor Tomlinson: This item relates to curbside food waste. The City's organizational goal can be used as an example for community-wide waste pickup and fees.

Prohibit Styrofoam in Food Service

Mayor Tomlinson: The City's organizational goal can be translated to community goals for waste reduction.

Recycling Styrofoam

Councilor O'Brien: This item is based on non-consent incoming Styrofoam.

Turn Off Reser Lights

Councilor O'Brien: It is unclear how to address this issue. The lights appear to be used for extensive periods of time on a frequent basis and not related to events.

Free Farmers' Market Coupons

Councilor Hervey: This expands an existing program supported by the faith community (That's My Farmer). By adding the Wednesday evening market, it is likely attendance will increase. An easy way to expand the local program is to provide a write-off for voluntary contributions. This also helps nurture local farmers.

Children/Families Funding, Educational Programs, and Athletic Programs

Councilor Brown: These are all investments in the future and future generations. Support might include additional allocations through the Social Services program. Educational programs would most likely be from educational organizations, but could include investing in the education of children to carry the community into the future. Providing additional athletic programs responds to the last item.

Public Safety

Councilor Brown: Corvallis is a very safe City and citizens do not think about what it would be like to not have the excellent Police Department we currently have.

Communicate Who Lives Here

Mayor Tomlinson: The City organizational goal to be a better place to work can be translated into a community-wide goal of making Corvallis a better place to work. The item can coincide with inclusion.

Removed Items—West Hills Road Bike Path

Councilor O'Brien: Specific areas of Corvallis are under-served for safe bicycle travel, such as the Grand Oaks Subdivision. The item can be revised for a complete assessment of all Corvallis bicycle accessibility.

Councilor Daniels: More emphasis on bicycle infrastructure can be added.

Mayor Tomlinson: Is it important to acknowledge the West Hills Road Bicycle Path separate from the other bicycle transportation issues that are currently on the list?

Councilor O'Brien: West Hills Road does not need to be specifically identified. The Council is aware that there are areas in Corvallis that are dangerously under-served by bicycle routes.

Removed Items—Curbside Pickup Food Waste

Councilor Hirsch: If curbside food pickup is included in Progressive Waste Fees, this item does not need to be identified separately. There is a potential economic benefit for curbside food pickup that should be included (worm casting).

New Item—Energy Conservation Measures

Councilor Daniels: Support for commercial and residential building owners.

New Item—Restrict Plastic Bags

Councilor Hirsch: Prohibiting Styrofoam and restricting plastic bags and/or encouraging reusable food bags.

Mayor Tomlinson: Restricting plastic bags can be added to the “Prohibit Styrofoam in Food Service” action item.

New Item—Support Local Business, Green Industry, and Downtown Vitality

Councilor Raymond: By the end of 2012, establish procedures, criteria, and a schedule for redevelopment plans inside the City Limits. An assessment of current green areas would need to be completed first.

In response to Councilor Hervey’s inquiry, Councilor Brown confirmed that outreach is included in the “Educational Programs” action item.

New Item—Explore Comparable Sustainability Construction Incentives

Councilor Hervey: CSC Energy Goal 1, Strategy 3, Actions 1 and 3.

Policy Discussion

Mayor Tomlinson said Council needs to vote on action items and develop policies. Council can develop policies from the results of the vote or draft policies before voting. The City adopted an organizational sustainability policy several years ago and Council may want to consider drafting a community sustainability policy.



Councilor Daniels said she would prefer to have a discussion about policy areas that generate enough interest to begin working. For example, there are many action items related to a policy area of energy and transportation. Council could work on policy areas related to energy conservation, transportation, local food, and/or waste reduction.

Mayor Tomlinson asked for consensus that Council work on developing policies for energy conservation and local food generation. Council concurred.

Mayor Tomlinson asked for consensus that Council work on developing a transportation policy limiting the amount of single-occupancy gas-powered automobile trips.

Councilor Hervey said once Council votes on action items, obvious interest areas will surface. When work begins on those items, other similar actions may surface. He opined that the actions will evolve into policy areas and does not believe the policy discussion, item by item, needs to immediately occur. He suggested Council vote on action items and then develop policies as the items are worked on.

Mr. Nelson reminded Council that the February discussions included narrowing the action items and policies that resonated with Council so budget information could be developed. Council was asked to bring back favorite action items and policies for further discussion. What was received was an emphasis on action items. A vote on action items could result in trends and groupings that would determine a path for a policy discussion at a later date.

Councilor Brauner suggested Council start the process by voting for favorite action items which will naturally result in groupings. Council can then focus on action areas and policies that are deemed most important. That does not mean these are the only sustainability policies Council will ever address.

Councilor Raymond agreed with drafting a policy related to energy reduction and a goal to reduce the carbon footprint. She believes the City and the community should share sustainability knowledge through education and encouragement.

Council agreed by consensus to vote for their top five items using the colored dots provided.

In response to Councilor Brauner's suggestion, Council agreed to consolidate the following items:

Local Food:

- ▶ Create Agricultural BEC
- ▶ Convert Farmable Land
- ▶ Encourage Low Income Community Gardens
- ▶ Free Farmers' Market Coupons

Transportation:

- ▶ Use Bikes for Transportation
- ▶ Bicycle Boulevards
- ▶ Hybrid Cars
- ▶ Free Transit
- ▶ Reduce Gas Power Auto Trips

Waste:

- ▶ Progressive Waste Fees (includes food waste)
- ▶ Prohibit Styrofoam in Food Service
- ▶ Recycle Styrofoam/Plastic Bags

Energy:

- ▶ Localize Renewable Energy Revenue
- ▶ Renewable Energy Utility Fee

Mayor Tomlinson recessed Council from 8:50 until 9:03 pm.

Mayor Tomlinson briefed Council on the process preceding development of the matrix. Council agreed that the votes could be cast in any manner chosen by the individual Councilor.

Voting Results

| | |
|--------------------------------------|------------------------|
| Support "Buy Local First" | 2 (dh, mo) |
| Localize Renewable Energy Revenue | 3 (dh, pd, db) |
| Convert Farmable Land | 5 (mb, rh, hb, jh, jr) |
| Use Bikes for Transportation | 4 (mb, jr, dh, db) |
| Reduce Gas-Power Auto Trips | 4 (rh, hb, pd, dh) |
| Hybrid Cars | 2 (db, ct) |
| Free Transit | 1 (hb) |
| Renewable Energy Utility Fee | 3 (jh, ct, rh) |
| Change LDC/LEED | 3 (mb, ct, pd) |
| Promote Alternative Sewer Technology | 2 (rh, mb) |
| Progressive Waste Fees/Food Waste | 0.5 (jh) |
| Prohibit Styrofoam in Food Service | 3.5 (jh, hb, ct, db) |
| Recycle Styrofoam/Plastic Bags | 2 (mo, mb) |
| Turn Off Reser Lights | 2 (mo, mo) |

| | |
|---|------------------------|
| Educational Programs | 4 (jh, jh, jr, rh) |
| Communicate Who Lives Here | 2 (ct, jr) |
| Support Energy Conservation and Generation | 5 (dh, hb, pd, pd, db) |
| Support Local Business, Green Industry, Downtown Vitality | 1 (jr) |
| Support Business Retention | 1 (mo) |

4. Next steps; budget/work plan; community survey

Mayor Tomlinson announced that results of action item consolidations, additions, reductions, and votes will be formulated into a written document.

Mr. Nelson confirmed that staff will provide a perspective of the results with the meeting minutes to be reviewed at the first meeting in April. Staff will then develop a work plan and resource implications for discussion at the second April Council meeting.

Councilor Hirsch commended City staff for their work on this important issue.

Councilor Daniels thanked Mayor Tomlinson, Councilor Brown, and Sustainability Supervisor Lovett for organizing the various Councilors' wishes.

Following a process discussion between Mayor Tomlinson and Councilor Daniels, Mr. Nelson clarified that Council can have a follow-up discussion on April 6 prior to staff developing a work plan and resource implications.

Councilor O'Brien said he did not understand how to express his interest of action items prior to this meeting. Other Councilors have expressed similar confusion. He said he will be cautious in reviewing the minutes and materials. He said the product is not what was expected at the beginning of the process, partly due to his failure to correctly follow the assignment.

Councilor Beilstein said he suspects Council will need to go through a winnowing process to compare resources with desires of accomplishment. Items with heavy support may not be pursued due to the lack of available resources. Part of the next steps will be to refine the list and reduce the number of initiatives.

Councilor Hervey acknowledged the work done to bring all of the various viewpoints together.

Mr. Nelson reiterated that this discussion will be captured in the minutes and on April 6 Council can discuss items they want staff to focus on for policy development and/or work plans.

Councilor Daniels said she assumed staff would bring back minutes and an idea of what policy area the action items fall under. Once a policy area is reviewed by Council, there are other strategies and actions that are not on the matrix that could be part of the process. A policy discussion needs to occur before other work is completed.

Mr. Nelson said the minutes will capture the outcome of the discussion and vote and then Council can discuss how to group the items under policies.

Councilor Hirsch said Council needs to start the process and get something done.

Councilor Hervey said it would be easier to cost out an action item before moving into a broad policy discussion. Once items are placed into policy groupings, it will be more difficult to capture resource information.

Councilor Raymond said she was also unclear how Council was going to proceed with respect to policy and action items. She believes there may be action items with minimal votes and negligible costs that the City could move forward on fairly quickly.

Councilor Brauner noted that the outcome does not have to be either actions or policies. The original concept was for staff to come back at the April 6 meeting with the results of this discussion and resource implications, followed by further Council discussion at the April 20 meeting. If staff brings back raw data for the April 6 meeting, Council can sort through next steps. Policies will evolve from the action items. At the next meeting, staff can help Council frame questions and direction for resource implication information.

Councilor Brown said he originally thought of this as a two-step process with policy development followed by a discussion of action items. Council can form clusters of identified policies and related actions, simultaneously.

Mr. Nelson confirmed that staff will return with raw data for the April 6 meeting.

Council agreed by consensus to postpone a discussion on a community survey until the policies/action items discussion is completed.

X. NEW BUSINESS – None.

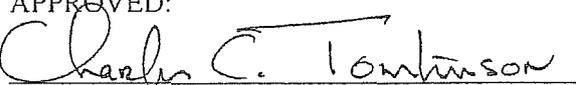
XI. ADJOURNMENT

The meeting adjourned at 9:30 pm.

ATTEST:


CITY RECORDER

APPROVED:


MAYOR

- G. Authorization to proceed with application for an Edward Byrne Memorial Justice Assistance Grant
- H. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(d) (status of labor negotiations)

The motion passed unanimously.

III. ITEMS REMOVED FROM CONSENT AGENDA – None.

IV. UNFINISHED BUSINESS

- A. Community Sustainability Action Plan discussion

Mayor Tomlinson referenced from the meeting packet memoranda from Councilors Hamby and Brown and minutes from the March 16th Council meeting discussions of the Community Sustainability Action Plan (CSAP) in relation to the Council's goal.

Councilor Hamby said his memorandum with Councilor Brown consolidates action items into seven topic areas, which parallel those of the Community Sustainability Coalition (Coalition). Energy and transportation garnered the greatest Council support, followed by waste, food, local business, sustainability education, and community inclusion.

Councilor Hamby asked the Council to consider the topics of energy and transportation and develop goals and action items that staff could begin pursuing. Staff could then determine the financial and staffing resources needed to proceed. He noted that he did not want to overwhelm staff with additional work but added that the Council would select a few action items at this time and could add more action items later, if resources permitted.

Councilor Daniels opined that transportation action items the Council supported were also supported by staff. She considered the topic areas good choices on which to focus.

Councilor Beilstein noted that waste, food, and community inclusion would not be addressed immediately. He would like the City to act on all topic areas. He noted that Allied Waste Services (AWS) is taking some actions regarding waste sustainability goals. The City could initiate prohibiting Styrofoam food containers and plastic shopping bags; however, the goal of reducing use of these items would probably be achieved without City input. Similarly, the work of Community Alliance for Diversity and other non-profit agencies address the topic of community inclusion. Progress will be made regarding the food issue by expanding the Farmers' Market opportunities. He does not consider it a problem that the City is not initiating programs to address these issues, since other community agencies are addressing them; therefore, he would support the City addressing the issues of energy and transportation.

Councilor Hamby concurred that other topics referenced by Councilor Beilstein were important. He clarified that he wanted the Council to begin working on action items, and other topic areas could be addressed in the future.

Councilor Raymond noted that the preference selection chart did not indicate her support for pursuing actions regarding natural areas. She concurred that energy and transportation were important initial goals as means of achieving the ultimate goal of reducing the community's "carbon footprint." She believed the City could do more to support community inclusion. She agreed that the Council should consider pursuing any actions if the community is lagging.

Referencing the issue of community inclusion, Councilor Daniels noted that staff would be involved in the 2010 census. The City's allocations of Federal funds are dependent upon an accurate census of all members of the community.

Councilor Hervey cautioned the Council to not focus on the preference selection process, noting that some dots were not placed adjacent to specific actions.

Energy Policy Goal

Councilor Beilstein expressed a desire to reduce dependence on sources of energy from outside the City.

Councilor Brown noted that conservation would result in a reduced use of imported energy.

Councilor O'Brien suggested a policy goal to support conservation and local generation of energy.

Councilor Daniels opined that a policy goal should indicate the reason for the Council's action.

Councilors noted that conservation protects scarce resources, the local economy, and financial savings.

The Council agreed to an energy policy goal to support conservation and local generation of energy to reduce the City's contribution to global warming and energy imports.

Transportation Policy Goal

Council members discussed whether the policy goal should be active (reduce) or supportive (encourage reduction).

Councilor Brown noted that encouraging and supporting are components of City policies.

The Council agreed to a transportation policy goal to encourage reduction of auto trips in the Corvallis community to minimize use of fuel, carbon dioxide emissions, and drain of resources from Corvallis.

Councilor Hamby directed Councilor members' attention to his memorandum with Councilor Brown regarding action items addressing the energy and transportation policy goals, including those identified during the March 16th Council meeting and those staff identified as "most promising."

Energy Action Items

Councilor O'Brien rescinded his suggestion that Oregon State University (OSU) decrease Reser Stadium lighting when the facility is not being used. He noted that OSU was maintaining a low energy consumption.

Councilor Raymond suggested that non-essential lights be turned off at businesses, such as when businesses are closed. This effort could be encouraged through community coordination.

Councilor O'Brien opined that the action item to investigate use of renewable energy surcharges on utility bills would be regressive to lower-income households that must use the same amount of electricity as higher-income households. He might accept a voluntary surcharge.

In response to Mayor Tomlinson's inquiry, Councilor O'Brien said he would like staff to investigate the regressiveness of a renewable energy surcharge.

In response to Councilor Hervey's inquiry, Mayor Tomlinson clarified that one energy action item should read, "investigate localizing current renewable energy revenue stream in conservation and/or generation projects." This action would involve discussions with Pacific Power.

Councilor Beilstein expressed a willingness to reduce the number of action items, saying it did not seem realistic for staff to thoroughly investigate all of the proposed action items. He would support selecting two action items for further staff investigation.

Councilor Brauner noted that the Council was reducing the number of action items for staff to investigate pursuing but was not authorizing staff to begin the action items. Staff analysis of needed resources would help him evaluate which action item to pursue. He agreed that the Council should ultimately select two action items.

Councilor Brown expressed agreement with Councilor Beilstein's intent to not choose too many action items.

City Manager Nelson offered that staff would provide overview information regarding implications (process, staff resources, financial investments) of the selected action items.

Transportation Action Items

Councilor Brown observed that encouraging more bicycle use was a promising way to meet the City's sustainability goals.

Councilor Raymond questioned whether some actions were included in staff's organizational sustainability action plans.

Councilor Hamby clarified that staff identified from the CSAP the action items deemed most likely to be accomplished within a short time period. Council members did not express strong support for all of those action items.

Councilor Brauner clarified that he proposed free public transit as a long-term goal, noting that it would be difficult to accomplish the goal in the near future. While free public transit would be beneficial, he suggested that it be deleted as a two-year goal and that action item 2.1.1 be amended to include alternative funding sources that would allow free public transit.

Councilor Brown concurred with Councilor Brauner's suggestion.

Councilor Beilstein suggested that the action item be re-worded to "reduce dependence upon transit fares."

Councilor Hamby said he was not ready to delete the possibility of free public transit and would like staff's evaluation of the impacts from no longer collecting transit fares.

Councilor Brauner suggested combining the two discussed action items into one, after receiving staff's evaluation. Public transit must be free from rider fares if it is to replace private automobile use.

Mayor Tomlinson noted that plug-in hybrid electric vehicles will soon be available to consumers. He suggested that CSAP action item 2.3.2 be amended to "encourage electric vehicles." This would include plug-in hybrid electric vehicles, which have more power and a longer driving range than neighborhood electric vehicles.

Councilor Hamby announced that staff will provide additional information regarding the selected action items for the April 20th Council meeting. He reminded Council members to be mindful of staff time needed to implement action items and not add tasks to meet their personal desires.

Councilor Daniels expressed support for continuing to encourage bicycle use, which she considered was missing from the CSAP. She opined that this action item should be included in efforts to meet the City's sustainability goal. She referenced Councilor Hirsch's recurring suggestion to keep the public informed of the Council's decisions. She noted that the education section of the CSAP referenced organizations providing information to the public. She added that staff is providing information toward the City's organizational sustainability goal, and these efforts can serve as examples for informing the public. The Council previously considered local business support and riparian area restoration, and work will continue on these issues because of other related Council goals.

V. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

1. Proclamation of Arbor Month – April 2009

Mayor Tomlinson read the proclamation.

INTER

MEMO

OFFICE

To: Council Legislative Committee
From: Assistant City Manager Ellen Volmert 
Subject: LEGISLATION UPDATE: HUMAN RESOURCE ISSUES

Background

Finance Director Brewer has been covering bills related to the Public Employee Retirement System (PERS), so they are not repeated here. There are several areas of legislation that the League of Oregon Cities (LOC) Personnel Committee has been tracking. Human resources was not a top priority area of the LOC, but the League Board has taken positions on some bills in this area. There are also bills very similar to ones where the Corvallis City Council has previously taken a position.

Discussion

Health Care

HB 3510 – Creates a single payer health care system for Oregon. The City Council has previously passed a resolution relating to federal health care reform with support for including the single payer option in the discussion, but did not specifically endorse the single payer option. The LOC has not taken a position on the bill, but is tracking it. They do not feel the concept has ever moved beyond the hearing stage (one hearing has been held) or that the concept has generated serious support in the Capital. Currently, the bill would mandate that all public employees and retirees be covered by the plan. The plan would be put into place as of January 2014 so it does not have a short term financial impact. Whether the concept would save or cost the City in the long term greatly depends upon the funding mechanism and that has yet to be determined. Mechanisms include an employer payroll tax, a graduated personal income tax, a transaction tax on stocks and bonds, taxes on unearned income, or a progressive surtax on higher incomes and gross business receipts. The intent is that the source generate adequate funds and be distributed based upon the ability to pay. If the source is not employers, the proposal has the potential for substantial savings to the City. If the source is one the City would pay, it is not possible to determine at this point what the financial impact would be compared to the current system.

HB 3293 - Requiring local governments to provide health care insurance through a State pool. The City in the past has opposed legislation which limits local control and this bill is being actively opposed by the LOC. The intent of the legislation would be to bring as many people as possible into the State's health care system to capitalize on purchasing power. Similar legislation in the past has mandated coverage through the State for school district employees and their experience has not proven to create great savings. Local governments are also different from schools in that they do not receive the majority of their funding from the State or significantly impact state budgets. Local governments often play a role in innovation and pilot programs and this has been the case in healthcare. Mandated State plans could significantly tie the City's hands in negotiating sustainable health benefits or early adoption of quality and efficiency best practices. Staff recommends that the Committee recommend opposing HB 3293.

Public Employee Collective Bargaining Act (PECBA)

A few bills have been introduced to revise the State's collective bargaining law. Generally, they have been unfavorable to employers and are opposed by the LOC. These include:

HJR 8 – Proposes an amendment to the State constitution prohibiting public employers from executing collective bargaining agreements unless the agreement is first approved by the voters. This would severely limit current authority for locally elected officials and would represent a significant delay in the negotiations process.

SB 174 and HB 2348- Modifies the definition of “supervisory employee” for PECBA purposes.

HB 2607 – Repeals expedited bargaining process in collective bargaining between public employers and employees

HB 2608 – Prohibits employer from hiring replacement workers for public employees engaged in a lawful strike

SB 352 – Defines casual and temporary employee and allows temporary employees to be included in the definition of appropriate bargaining unit.

Staff would recommend that the Council continue to monitor these bills and take a position at a later date if it appears any will move forward.

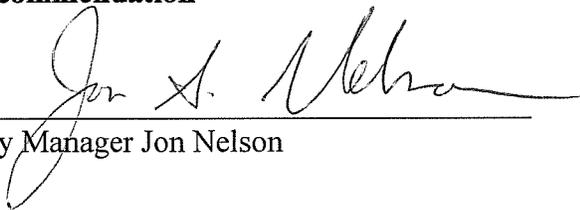
Other employment related bills being opposed by the LOC include:

HB2230 – Requires an employer to offer first payment of wages to an employee within 14 days of the initial hire date. This would be a problem for the City and other employers with monthly payroll.

HB2349 – Establishes a presumption that certain blood borne diseases are compensable occupational diseases for public safety officers. The City has generally opposed legislation that would create a presumption of illness vs. the normal standards required showing a nexus between the work and the illness.

Like the PECBA bills above, staff would recommend that the City Council continue to monitor these bills and consider a position at a later date if the bills appear to be progressing.

Recommendation



City Manager Jon Nelson



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PROCLAMATION

FAIR HOUSING MONTH

APRIL 2011

- WHEREAS, April 11, 2011 marks the 43rd 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 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, Julie Jones Manning, Mayor of Corvallis, Oregon, do hereby proclaim **April 2011** to be **Fair Housing Month** in the City of Corvallis and call upon citizens to share in the responsibility of ensuring fair housing choices for all members of our community.

Julie Jones Manning, Mayor

Date

A Community That Honors Diversity

COUNCIL REQUESTS

FOLLOW-UP REPORT

MARCH 31, 2011

1. Wild Turkeys in Skyline West – Culling Permits Exhausted (Manning)

During fall 2010, the Police Department obtained ten wild turkey culling permits with intent to cull out ten wild turkeys from various citizen-reported problem areas within the City. City Police culled ten wild turkeys as a result of that effort. As expected, the turkey issues returned during the spring as a result of the turkeys' mating season. Nancy Taylor of the Oregon Department of Fish and Wildlife (ODFW) was recently contacted by Police staff and advised that she had already begun receiving complaints about wild turkeys and the related issues that were also experienced last year with damage, etc. Police staff filed a request with ODFW for turkey "Kill Permit" tags and anticipates receiving these tags during the last week of March. Upon receipt of the tags and the required identification of a willing consumer of the harvested turkeys, a designated Police staff person will begin taking turkeys in the Skyline West area first and then move to other areas in the City where residents complain about turkey damage.

As a note, it is illegal in Oregon to live trap, re-locate, and release wild turkeys. Culling the birds means we must kill the birds. While every effort is made to do this in a manner that does not attract the attention of nearby residents, ultimately, as we experienced last year, staff was approached by some persons who were unhappy about this action.

2. Oregon Pilots Association Donation to Airport Fund (Nelson)

The Corvallis Chapter of the Oregon Pilots Association (OPA) voted to disband. The executive committee donated the remaining funds in their treasury to the City of Corvallis Airport Fund for use in the planned upgrade of the public restrooms in the main hangar to provide 24/7 public access. A special project has been included in the proposed Fiscal Year 2011-2012 budget to make these modifications to the existing restrooms.

The OPA recently delivered checks totaling \$3,960.93 made payable to the City of Corvallis. The City intends to accept these funds into the Airport Fund designated for partial funding of the \$10,000 planned modification of these airport public restrooms.


Jon Nelson
City Manager

**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 |
|--|---------------------|------------------------|---------------------------|--------------------|-------------------------------|-----------------|
| Wild Turkeys in Skyline West – Culling Permits Exhausted | Manning | 03-21-11 | 03-31-11 | Boldizar | CCR 03-31-11 | |
| Oregon Pilots Association Donation to Airport Fund | Nelson | 03-25-11 | 03-31-11 | Rogers | CCR 03-31-11 | |

**ADMINISTRATIVE SERVICES COMMITTEE
SCHEDULED ITEMS**

March 31, 2011

| MEETING DATE | AGENDA ITEM |
|--------------|---|
| April 6 | <ul style="list-style-type: none"> • da Vinci Days Loan Agreement Status Annual Report • GASB 54 Update |
| April 20 | |
| May 4 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 95-4.10, "Public Library Gifts and Donations Policy" |
| May 18 | <ul style="list-style-type: none"> • Economic Development Allocations Third Quarter Report |
| June 8 | <ul style="list-style-type: none"> • Third Quarter Operating Report • Allied Waste Services Annual Report |
| June 22 | |
| July 6 | |
| July 20 | <ul style="list-style-type: none"> • Land Use Application Fees Review |
| August 3 | |
| August 17 | |
| September 7 | |
| September 21 | <ul style="list-style-type: none"> • Economic Development Allocations Fourth Quarter Report |
| October 5 | <ul style="list-style-type: none"> • Fourth Quarter Operating Report • Council Policy Reviews: <ul style="list-style-type: none"> • CP 04-1.09, "Public Access Television" • CP 93-1.06, "Guidelines for Use of the City Logo" • CP 94-2.09, "Council Orientation" • CP 91-3.02, "City Compensation Policy" • CP 91-3.04, "Separation Policy" |
| October 19 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 08-1.11, "Identity Theft Prevention and Red Flag Alerts" |
| November 9 | <ul style="list-style-type: none"> • Council Policy Reviews: <ul style="list-style-type: none"> • CP 91-2.03, "Expense Reimbursement" • CP 98-2.10, "Use of E-Mail by Mayor and City Council" • Comprehensive Annual Financial Report |
| November 23 | <ul style="list-style-type: none"> • Utility Rate Annual Review |

| MEETING DATE | AGENDA ITEM |
|--------------|--|
| December 7 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 91-2.02, "Council Process" • CP 97-10.01 - 10.08, "Financial Policies" • First Quarter Operating Report |
| December 21 | |

ASC PENDING ITEMS

- Utility Rate Structure Review Public Works
- Voluntary Donations on Electronic Utility Payments Finance

Regular Meeting Date and Location:

Wednesday following Council, 4:00 pm – Madison Avenue Meeting Room

**HUMAN SERVICES COMMITTEE
SCHEDULED ITEMS**

March 31, 2011

| MEETING DATE | AGENDA ITEM |
|--------------|--|
| April 5 | <ul style="list-style-type: none"> • Willamette Neighborhood Housing Services Second Quarter Report |
| April 19 | <ul style="list-style-type: none"> • Boys and Girls Club of Corvallis Annual Report |
| May 3 | <ul style="list-style-type: none"> • Liquor License Annual Renewals • Majestic Theatre Annual Report • Council Policy Review: <ul style="list-style-type: none"> • CP 99-4.13, "Internet Access Policy for Corvallis-Benton County Public Library" • CP 95-4.08, "Code of Conduct on Library Premises" |
| May 17 | <ul style="list-style-type: none"> • Fall Festival Annual Report |
| June 7 | <ul style="list-style-type: none"> • Boards and Commissions Sunset Reviews: <ul style="list-style-type: none"> • Community Police Review Board • Parks, Natural Areas, and Recreation Board |
| June 21 | |
| July 6 | <ul style="list-style-type: none"> • Corvallis Farmers Market Annual Report • Parks and Recreation Annual Fee Review |
| July 19 | <ul style="list-style-type: none"> • Willamette Neighborhood Housing Services Third Quarter Report |
| August 2 | |
| August 16 | <ul style="list-style-type: none"> • Social Services Semi-Annual Report |
| September 7 | |
| September 20 | <ul style="list-style-type: none"> • Rental Housing Program Annual Report • Willamette Neighborhood Housing Services Fourth Quarter Report • Communication Plan Annual Report |
| October 4 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 93-4.11, "Public Library Policy for Selecting and Discarding Materials" • CP 99-4.14, "Use of City Hall Plaza and Kiosk" |
| October 18 | |
| November 8 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 91-4.01, "Guidelines for Selling in Parks" |
| November 22 | |
| December 6 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 91-1.03, "Naming of Public Facilities and Land" • CP 92-5.04, "Hate/Bias Violence" |

| MEETING DATE | AGENDA ITEM |
|--------------|-------------|
| December 20 | |

HSC PENDING ITEMS

- Council Policy Review: CP 00-6.05, "Social Service Funding Policy" Community Development
- Indoor Furniture Placed Outdoors Community Development
- Municipal Code Review: Chapter 5.01, "City Park Regulations" (Alcoholic Beverages in Parks) Parks & Recreation
- Social Services Allocations – Fiscal Year 2011-2012 Community Development

Regular Meeting Date and Location:

Tuesday following Council, 12:00 pm – Madison Avenue Meeting Room

**URBAN SERVICES COMMITTEE
SCHEDULED ITEMS**

March 31, 2011

| MEETING DATE | AGENDA ITEM |
|--------------|--|
| April 7 | <ul style="list-style-type: none"> • Food Carts |
| April 21 | <ul style="list-style-type: none"> • 9th Street Bicycle Lanes • Energy Efficiency and Conservation Block Grant (EECBG) Program Update |
| May 5 | <ul style="list-style-type: none"> • ODOT/Corvallis Crossing Interim Project |
| May 19 | |
| June 9 | <ul style="list-style-type: none"> • United Chrome Easement and Equitable Servitudes Agreement • Boards and Commissions Sunset Reviews: <ul style="list-style-type: none"> • Bicycle and Pedestrian Advisory Commission • Citizens Advisory Commission on Transit |
| June 23 | |
| July 7 | |
| July 21 | |
| August 4 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 99-7.14, "Prepayment for Public Street Improvements" |
| August 18 | |
| September 8 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 02-7.15, "Fee-in-Lieu Parking Program" |
| September 22 | |
| October 6 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 91-7.01, "Assessments - Sanitary Sewer and Water System Improvements" • CP 91-7.02, "Assessments - Storm System" • CP 91-7.03, "Assessments - Street Improvements" • CP 91-7.11, "Water Main Extensions and Fire Protection" • CP 91-8.01, "Watershed Easement Considerations" • CP 91-9.04, "Street Lighting Policy" • CP 08-9.07, "Traffic Calming Program" |
| October 20 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 04-1.08, "Organizational Sustainability" |
| November 10 | |
| November 24 | No meeting |

| MEETING DATE | AGENDA ITEM |
|--------------|---|
| December 8 | <ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 91-7.09, "Traffic Control Devices, Cost of" • CP 91-7.10, "Water Line Replacement Policy" • CP 91-9.01, "Crosswalks" |
| December 22 | |

USC PENDING ITEMS

- | | |
|---|-----------------------|
| • Council Policy Review: CP 91-7.04, "Building Permits" | Community Development |
| • Council Policy Review: CP 91-9.03, "Residential Parking Permit District Fees" | Public Works |
| • Fire Protection Services in Health Hazard Residential Areas | Fire |
| • Reducing Potential for Fire Spread Involving Natural Resources | Fire |
| • Renewable Energy Sources | City Manager's Office |
| • Traffic Calming Program | Public Works |

Regular Meeting Date and Location:

Thursday following Council, 5:00 pm – Madison Avenue Meeting Room

UPCOMING MEETINGS OF INTEREST



City of Corvallis

APRIL - AUGUST 2011
(Updated March 31, 2011)

APRIL 2011

| Date | Time | Group | Location | Subject/Note |
|-----------|-----------------|---|--------------------------------------|----------------|
| 4 | 7:00 am | Bicycle and Pedestrian Adv Cmsn | Madison Avenue Mtg Rm | |
| 2 | 10:00 am | Government Comment Corner | Library Lobby - TBD | |
| 4 | 12:00 pm | City Council | Downtown Fire Station | |
| 4 | 7:00 pm | City Council | Downtown Fire Station | |
| 5 | 7:00 am | Airport Commission | Madison Avenue Mtg Rm | |
| 5 | 12:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 5 | 12:00 pm | <i>Cmsn for Martin Luther King, Jr.</i> | <i>Merryfield Meeting Room</i> | |
| 5 | 5:30 pm | Downtown Parking Committee | Madison Avenue Mtg Rm | |
| 6 | 7:30 am | City Legislative Committee | Cornell Meeting Room | |
| 6 | 4:00 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 6 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 6 | 7:30 pm | Library Board | Library Board Room | |
| 7 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 7 | 7:00 pm | Committee for Citizen Involvement | Madison Avenue Mtg Rm | |
| 8 | 7:00 am | <i>Bicycle and Pedestrian Adv Cmsn</i> | <i>Madison Avenue Mtg Rm</i> | |
| 9 | 10:00 am | Government Comment Corner | Library Lobby - <i>Biff Traber</i> | |
| 11 | 3:00 pm | Economic Development Cmsn | Madison Ave Mtg Rm | |
| 12 | 7:00 pm | Ward 1 Meeting (O'Brien) | Ashbrook School Library | City sponsored |
| 12 | 7:00 pm | Historic Resources Commission | Downtown Fire Station | |
| 13 | 8:20 am | Citizens Advisory Cmsn on Transit | Madison Avenue Mtg Rm | |
| 13 | 5:30 pm | Downtown Commission | Madison Avenue Mtg Rm | |
| 14 | 8:00 am | Citizens Advisory Cmsn on Civic Beautification and Urban Forestry | Parks and Rec Conf Rm | |
| 16 | 10:00 am | Government Comment Corner | Library Lobby - <i>Julie Manning</i> | |
| 18 | 12:00 pm | City Council | Downtown Fire Station | |
| 18 | 7:00 pm | City Council | Downtown Fire Station | |
| 19 | 12:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 20 | 7:30 am | City Legislative Committee | Cornell Meeting Room | |
| 20 | 12:00 pm | Housing and Community Dev Cmsn | Madison Avenue Mtg Rm | |
| 20 | 4:00 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 20 | 5:30 pm | Watershed Mgmt Adv Cmsn | Madison Avenue Mtg Rm | |
| 20 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 21 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 21 | 6:30 pm | Parks, Natural Areas, and Rec Brd | Downtown Fire Station | |
| 23 | 10:00 am | Government Comment Corner | Library Lobby - Mike Beilstein | |
| 25 | 4:30 pm | Airport Industrial Park Plng Cmte | Downtown Fire Station | |
| 26 | 12:00 pm | <i>Cmsn for Martin Luther King, Jr.</i> | <i>Madison Avenue Mtg Rm</i> | |
| 28 | 5:30 pm | Arts and Culture Commission | Parks and Rec Conf Rm | |
| 30 | 10:00 am | Government Comment Corner | Library Lobby - Richard Hervey | |

MAY 2011

| 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 | 7:00 am | Airport Commission | Madison Avenue Mtg Rm | |
| 3 | 12:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 3 | 5:30 pm | Downtown Parking Committee | Madison Avenue Mtg Rm | |
| 3 | 7:00 pm | Budget Commission | Downtown Fire Station | |
| 4 | 7:30 am | City Legislative Committee | Cornell Meeting Room | |
| 4 | 4:00 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 4 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 4 | 7:30 pm | Library Board | Library Board Room | |
| 5 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 5 | 7:00 pm | Committee for Citizen Involvement | Madison Avenue Mtg Rm | |
| 6 | 7:00 am | Bicycle and Pedestrian Adv Cmsn | Madison Avenue Mtg Rm | |
| 7 | 10:00 am | Government Comment Corner | Library Lobby - Jeanne Raymond | |
| 9 | 3:00 pm | Economic Development Cmsn | Madison Ave Mtg Rm | |
| 9 | 7:00 pm | Budget Commission | Downtown Fire Station LaSells Stewart Center | |
| 10 | 7:00 pm | Historic Resources Commission | Madison Avenue Mtg Rm | |
| 11 | 8:20 am | Citizens Advisory Cmsn on Transit | Madison Avenue Mtg Rm | |
| 11 | 5:30 pm | Downtown Commission | Madison Avenue Mtg Rm | |
| 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 - Linda Modrell | |
| 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 | |
| 17 | 7:00 pm | Ward 6 Meeting (Hirsch) | Osborn Aquatic Center | City sponsored |
| 18 | 7:30 am | City Legislative Committee | Cornell Meeting Room | |
| 18 | 4:00 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 18 | 5:30 pm | Watershed Mgmt Adv Cmsn | Madison Avenue Mtg Rm | |
| 18 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 19 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 19 | 6:30 pm | Parks, Natural Areas, and Rec Brd | Parks and Rec Conf Rm | |
| 21 | 10:00 am | Government Comment Corner | Library Lobby - Biff Traber | |
| 23 | 4:30 pm | Airport Industrial Park Plng Cmte | Downtown Fire Station | |
| 24 | 12:00 pm | Cmsn for Martin Luther King, Jr. | Madison Avenue Mtg Rm | |
| 26 | 5:30 pm | Arts and Culture Commission | Parks and Rec Conf Rm | |
| 28 | | No Government Comment Corner | | |
| 30 | | City Holiday - all offices closed | | |

JUNE 2011

| Date | Time | Group | Location | Subject/Note |
|-------------|-----------------|-----------------------------------|------------------------------|---------------------|
| 1 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 1 | 7:30 pm | Library Board | Library Board Room | |
| 2 | 7:00 pm | Committee for Citizen Involvement | Madison Avenue Mtg Rm | |
| 3 | 7:00 am | Bicycle and Pedestrian Adv Cmsn | Madison Avenue Mtg Rm | |
| 4 | 10:00 am | Government Comment Corner | Library Lobby - TBD | |
| 6 | 12:00 pm | City Council | Downtown Fire Station | |
| 6 | 7:00 pm | City Council | Downtown Fire Station | |
| 7 | 7:00 am | Airport Commission | Madison Avenue Mtg Rm | |

| Date | Time | Group | Location | Subject/Note |
|-----------|-----------------|---|--------------------------------|---|
| 7 | 12:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 7 | 5:30 pm | Downtown Parking Committee | Madison Avenue Mtg Rm | |
| 8 | 7:30 am | City Legislative Committee | Cornell Meeting Room | |
| 8 | 8:20 am | Citizens Advisory Cmsn on Transit | Madison Avenue Mtg Rm | |
| 8 | 4:00 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 8 | 5:30 pm | Downtown Commission | Downtown Fire Station | |
| 9 | 8:00 am | Citizens Advisory Cmsn on Civic Beautification and Urban Forestry | Parks and Rec Conf Rm | |
| 9 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 11 | 10:00 am | Government Comment Corner | Library Lobby - TBD | |
| 13 | 3:00 pm | Economic Development Cmsn | Downtown Fire Station | |
| 13 | 5:30 pm | City Council Work Session | Madison Ave Mtg Rm | Plng Cmsn/Historic Resources Cmsn interviews (tentative) |
| 13 | 7:00 pm | Mayor/City Council/City Manager Quarterly Work Session | Madison Ave Mtg Rm | |
| 14 | 5:30 pm | City Council Work Session | Madison Ave Mtg Rm | Plng Cmsn/Historic Resources Cmsn interviews (tentative) |
| 14 | 7:00 pm | Historic Resources Commission | Downtown Fire Station | |
| 15 | 12:00 pm | Housing and Community Dev Cmsn | Madison Avenue Mtg Rm | |
| 15 | 5:30 pm | Watershed Mgmt Adv Cmsn | Madison Avenue Mtg Rm | |
| 15 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 16 | 6:30 pm | Parks, Natural Areas, and Rec Brd | Parks and Rec Conf Rm | |
| 18 | 10:00 am | Government Comment Corner | Library Lobby - Mike Beilstein | |
| 20 | 12:00 pm | City Council | Downtown Fire Station | |
| 20 | 7:00 pm | City Council | Downtown Fire Station | |
| 21 | 12:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 22 | 7:30 am | City Legislative Committee | Cornell Meeting Room | |
| 22 | 4:00 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 23 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 23 | 5:30 pm | Arts and Culture Commission | Parks and Rec Conf Rm | |
| 25 | 10:00 am | Government Comment Corner | Library Lobby - TBD | |
| 27 | 4:30 pm | Airport Industrial Park Plng Cmte | Downtown Fire Station | |
| 28 | 12:00 pm | Cmsn for Martin Luther King, Jr. | Madison Avenue Mtg Rm | |

JULY 2011

| Date | Time | Group | Location | Subject/Note |
|----------|-----------------|-----------------------------------|------------------------------|--------------|
| 1 | 7:00 am | Bicycle and Pedestrian Adv Cmsn | Madison Avenue Mtg Rm | |
| 2 | | No Government Comment Corner | | |
| 4 | | City Holiday - all offices closed | | |
| 5 | 7:00 am | Airport Commission | Madison Avenue Mtg Rm | |
| 5 | 12:00 pm | City Council | Downtown Fire Station | |
| 5 | 5:30 pm | Downtown Parking Committee | Madison Avenue Mtg Rm | |
| 5 | 7:00 pm | City Council | Downtown Fire Station | |
| 6 | 7:30 am | City Legislative Committee | Cornell Meeting Room | |
| 6 | 12:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 6 | 4:00 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 7 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 9 | 10:00 am | Government Comment Corner | Library Lobby - | |
| 11 | 3:00 pm | Economic Development Cmsn | Downtown Fire Station | |

| Date | Time | Group | Location | Subject/Note |
|-------------|-----------------|--|--------------------------------------|---------------------|
| 13 | 8:20 am | <i>Citizens Advisory Cmsn on Transit</i> | <i>Madison Avenue Mtg Rm</i> | |
| 14 | 8:00 am | <i>Citizens Advisory Cmsn on Civic Beautification and Urban Forestry</i> | <i>Parks and Rec Conf Rm</i> | |
| 16 | 10:00 am | <i>Government Comment Corner</i> | <i>Library Lobby - Hal Brauner</i> | |
| 18 | 12:00 pm | City Council | Downtown Fire Station | |
| 18 | 7:00 pm | City Council | Downtown Fire Station | |
| 19 | 12:00 pm | <i>Human Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 20 | 7:30 am | <i>City Legislative Committee</i> | <i>Cornell Meeting Room</i> | |
| 20 | 4:00 pm | <i>Administrative Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 20 | 5:30 pm | <i>Watershed Mgmt Adv Cmsn</i> | <i>Madison Avenue Mtg Rm</i> | |
| 21 | 5:00 pm | <i>Urban Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 21 | 6:30 pm | <i>Parks, Natural Areas, and Rec Brd</i> | <i>Parks and Rec Conf Rm</i> | |
| 23 | 10:00 am | <i>Government Comment Corner</i> | <i>Library Lobby - Biff Traber</i> | |
| 26 | 12:00 pm | <i>Cmsn for Martin Luther King, Jr.</i> | <i>Madison Avenue Mtg Rm</i> | |
| 28 | 5:30 pm | <i>Arts and Culture Commission</i> | <i>Parks and Rec Conf Rm</i> | |
| 30 | 10:00 am | <i>Government Comment Corner</i> | <i>Library Lobby - Linda Modrell</i> | |

AUGUST 2011

| Date | Time | Group | Location | Subject/Note |
|-------------|-----------------|--|--------------------------------------|---------------------|
| 1 | 12:00 pm | City Council | Downtown Fire Station | |
| 1 | 7:00 pm | City Council | Downtown Fire Station | |
| 2 | 12:00 pm | <i>Human Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 3 | 7:30 am | <i>City Legislative Committee</i> | <i>Cornell Meeting Room</i> | |
| 3 | 4:00 pm | <i>Administrative Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 4 | 5:00 pm | <i>Urban Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 6 | 10:00 am | <i>Government Comment Corner</i> | <i>Library Lobby - TBD</i> | |
| 8 | 3:00 pm | <i>Economic Development Cmsn</i> | <i>Madison Avenue Mtg Rm</i> | |
| 11 | 8:00 am | <i>Citizens Advisory Cmsn on Civic Beautification and Urban Forestry</i> | <i>Parks and Rec Conf Rm</i> | |
| 13 | 10:00 am | <i>Government Comment Corner</i> | <i>Library Lobby - TBD</i> | |
| 15 | 12:00 pm | City Council | Downtown Fire Station | |
| 15 | 7:00 pm | City Council | Downtown Fire Station | |
| 16 | 12:00 pm | <i>Human Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 17 | 7:30 am | <i>City Legislative Committee</i> | <i>Cornell Meeting Room</i> | |
| 17 | 4:00 pm | <i>Administrative Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 18 | 5:00 pm | <i>Urban Services Committee</i> | <i>Madison Avenue Mtg Rm</i> | |
| 18 | 6:30 pm | <i>Parks, Natural Areas, and Rec Brd</i> | <i>Parks and Rec Conf Rm</i> | |
| 20 | 10:00 am | <i>Government Comment Corner</i> | <i>Library Lobby - Julie Manning</i> | |
| 23 | 12:00 pm | <i>Cmsn for Martin Luther King, Jr.</i> | <i>Madison Avenue Mtg Rm</i> | |
| 25 | 5:30 pm | <i>Arts and Culture Commission</i> | <i>Parks and Rec Conf Rm</i> | |
| 27 | 10:00 am | <i>Government Comment Corner</i> | <i>Library Lobby - TBD</i> | |

Bold type – involves the Council ~~Strikeout~~ type – meeting canceled *Italics* type – new meeting

TBD To be Determined

MAR 25 2011

CITY MANAGERS
OFFICE

Resolution as proposed by Dr. Hank Elder to the City Council of the City of Corvallis on March 23, 2011:

WHEREAS, the City Council of the City of Corvallis believes that every citizen and family in our city, County, the state of Oregon, and the United States will benefit from affordable, quality healthcare, and the City Council believes that disruptive healthcare costs to local economies and governments would be reduced thereby, and

WHEREAS, over 85 million Americans have major healthcare insurance problems, including **40** million Americans currently uninsured and more than **45** million Americans nationwide currently under-Insured; the burden on both small and large employers, both private and public, of providing employee health insurance is becoming increasingly difficult and prohibitively expensive, which impacts their ability to remain competitive, and

WHEREAS, as a major local employer, the City of Corvallis provides health insurance for over 400 employees and their families and has worked for many years to provide cost effective, responsive health care insurance through an investment in health strategy and partnerships with other employers, and yet has still experienced rapid increases in health care premiums and expenses; and

WHEREAS, such matters as healthcare affordability and access ultimately are community issues with local importance and long-term impacts that strain local government budgets in diverse ways, such as public safety and school health issues; and

WHEREAS, the Corvallis Vision 2020 Statement references such impacts and sets a community goal for comprehensive health services that are easily accessible and available to all residents and

WHEREAS, Americans spend more for healthcare as a percentage of Gross Domestic Product than any other industrially developed nation; and America unlike other developed nations has a fragmented healthcare delivery system, which contributes to higher costs and inefficiencies; and

WHEREAS, even those people who have health insurance experience high medical debt, and medical costs are a frequent cause of filing personal bankruptcy for those that are insured as well as those who lack insurance; and

WHEREAS, numerous reports show that private insurance systems have significantly higher administrative costs compared to public single-payer systems such as Medicare and the Veterans Administration and that bills have been filed in Congress seeking single-payer comprehensive health system reform, including HR 676 (Improved Medicare for All); and

WHEREAS polls taken among American physicians show that a significant majority believe that Single-payer systems offer the best method of securing affordable healthcare and these opinions are shared by other health care professionals as indicated by endorsements from the National Medical Association, American Medical Women's Association, American Medical Student Association, American Association of Community Psychiatrists, American Nurses Association, California Nurses Association/National Nurses Organizing Committee, Oregon Chapter Academy of American Family Physicians, and the American Public Health Association; and

WHEREAS, single-payer systems have been endorsed by local governmental units such as the US Conference of Mayors and the Lane County Board of Commissioners; and

WHEREAS, the City of Corvallis is involved in health reform discussions through its membership in the Oregon Healthcare Purchasers Coalition and its own health care and wellness programs as well as providing services to the community in support of healthy and active living; and

WHEREAS, health care reform efforts are aimed at improving access and affordability of health care as well as transparency of cost and performance information and provider and consumer incentives for wise use of health care and engagement in wellness and prevention

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES

That the City Council, in order to support access for all Americans especially the citizens of Corvallis like citizens of other developed nations to higher quality and effective healthcare urges the Oregon Congressional Delegation and the United States Congress to enact HR 676 or a modification thereof.

That the City Council urges the Oregon state legislature to enact HB 3510 or SB 888 or a modification thereof.

That the City Council hereby direct the Mayor to send a copy of this resolution to the Corvallis Gazette Times and the Oregon State University Barometer, radio and television stations and to our federal representatives and state representatives for their due consideration and enactment.

**HUMAN SERVICES COMMITTEE
MINUTES
March 22, 2011**

Present

Councilor Mike Beilstein, Chair
Councilor Jeanne Raymond
Councilor Dan Brown

Staff

Ellen Volmert, Assistant City Manager
Steve Deghetto, Parks and Recreation Assistant Director
Carrie Mullens, City Manager's Office

Visitors

Sara Swanberg, Arts Center Executive Director
Hester Coucke, Arts Center Assistant Director/Gallery Curator

SUMMARY OF DISCUSSION

| <u>Agenda Item</u> | <u>Information Only</u> | <u>Held for Further Review</u> | <u>Recommendations</u> |
|---|-------------------------|--------------------------------|--|
| I. Corvallis Arts Center Annual Report | | | Accept the Corvallis Arts Center annual report for Fiscal Year 2009-2010 |
| II. Public Art Selection Commission Annual Report | | | Accept the Public Art Selection Commission annual report for Fiscal Year 2009-2010 |
| III. Other Business | *** | | |

Chair Beilstein called the meeting to order at 12:00 pm.

CONTENT OF DISCUSSION

I. Corvallis Arts Center Annual Report (Attachment)

Mr. Deghetto reviewed the staff report and noted the following highlights for Fiscal Year 2009-2010:

- Offered 29 on-site classes serving more than 330 children.
- Continued the Samaritan Health Services ArtsCare program bringing art and artists into the health-care environment.
- Served more than 4,700 children in Linn and Benton Counties through the Arts in Education program.
- Partnered with the Multicultural Literacy Center, Oregon State University, the Library, and the Corvallis Environmental Center to offer the Globetrotters Arts and Culture Camp.
- Organized and assisted with additional art-focused programs in partnership with the Parks and Recreation Department, Corvallis School District 509J, Leadership Corvallis, Fall Festival, and the da Vinci Days festival.
- Offered 21 exhibitions featuring local, regional, and national guest artists and community art guilds.
- Provided more than 4,000 volunteer hours.

- Offered market space to more than 183 local and regional artists.
- Maintained a diverse revenue stream with funding from the City, Oregon Arts Commission, Oregon Community Foundation, The Collins Foundation, Benton County Cultural Coalition, Samaritan Health Services, Cascadia Foundation, Franklin Conklin Foundation, Corvallis Kiwanis, grants, endowment funds, memberships, sponsorships, donations, class fees, and ArtShop and gallery sales.

Ms. Swanberg read her prepared testimony (Attachment A). She stated appreciation for past support from the City and noted that the Arts Center will struggle without City support. Financial support from the City is important in leveraging other funds. Current economics are forcing foundations to grant less funding and other art communities are also struggling. Additional handouts included the Winter 2011 *ArtSpirit* newsletter, poster of Forum 2010-11 *Between the Cracks* events (Attachment B), and a flier describing the Arts Center and building history (Attachment C).

Ms. Swanberg said, although she has enjoyed her five years as executive director, she is looking forward to her retirement at the end of April. Three people have been interviewed for her position and a decision is expected later this week. The Arts Center looks forward to its continuing relationship with the City.

Councilors Brown and Raymond commended Ms. Swanberg's good works. Councilor Raymond added that the funds acquired by the Arts Center is impressive. She regrets the City cannot provide more financial support.

Chair Beilstein said he also regrets Council did not maintain the historical financial commitment with the Arts Center. Voters established a tax base for the Arts Center and then Measure 50 consolidated separate tax bases. It seems unethical for the City to remove the funding after the voters approved it simply because everything is now included in the City's budget. He opined that there may have been a different result if the Arts Center had received the level of testimony during the Budget Commission meetings that was given for Chinitimini Senior Center and Osborn Aquatic Center. It will be difficult to re-establish financial support despite the clear contribution the Arts Center makes to the quality of life in Corvallis.

In response to Chair Beilstein's inquiry about the effectiveness of the Arts and Culture Commission (ACC), Ms. Swanberg said she attended the meetings that created the commission, but does not serve on the commission. The ACC will remind others to always include arts and culture in decision making.

Ms. Swanberg noted that the Arts Center building is owned and maintained by the City. As a registered National Historic building, it is required to be open to the public for specified amounts of time each year.

The Committee unanimously recommends that Council accept the Corvallis Arts Center annual report for Fiscal Year 2009-2010.

II. Public Art Selection Commission Annual Report (Attachment)

Mr. Deghetto explained that in addition to duties at the Arts Center, Ms. Coucke is the City's liaison to the Public Art Selection Commission (PASC). PASC oversees the selection, acceptance, and placement of public art in Corvallis and the Arts Center provides PASC administration for the Parks and Recreation Department on a contracted amount of \$5,000 per year. Due to budget issues, the contract will not be renewed for Fiscal Year 2011-2012 and those duties will be brought into the Department.

Highlights for Fiscal Year 2009-2010, included reviews and recommended amendments to Council policies related to placing City-owned or funded art objects and selecting art work. PASC selected the glass mobile for the Library lobby and the mosaic for the outdoor stairwell of the Arts Center.

Ms. Coucke expressed concern that City staff will not have time to perform the amount of work required beyond PASC meetings. She explained that selecting the Library mobile involved multiple contacts to locate artists capable of creating a large art piece, selecting the artist, contracting for the design and product, and conversing with those artists not chosen. Currently, Ms. Coucke is researching the needed repairs to the sculpture located behind the Arts Center.

Ms. Coucke noted that, although the graffiti wall is permanent, the artwork on the wall is considered temporary so it will not process through PASC.

Ms. Coucke added that it has been nice to work with people who volunteer their time and expertise for the City and Arts Center.

Mr. Deghetto said PASC is the only commission where the Parks and Recreation Department contracts for administrative services. The Department is discussing how to transition the services into the Department. There may be some opportunity for contracted services for efficiency purposes and needed expertise.

In response to Councilor Raymond's inquiry, Mr. Deghetto said the \$5,000 budgeted amount was for PASC administration, such as organizing meetings, preparing minutes, and additional contacts and duties. The policy is clear about how the duties will be performed along with art acceptance and criteria guidelines.

Mr. Deghetto agreed with Chair Beilstein's comment about the City maintaining the Arts Center building and further explained that as part of the budgeting process, there is a building maintenance plan that reviews all City-owned buildings. The agreement with the Arts Center includes items the City is required to maintain to preserve the facility such as painting, heating, plumbing, and some of the electrical system.

Ms. Swanberg added that she recently acquired a grant to improve the interior of the building and submitted another grant request to replace the interior track lighting. She noted that the Arts Center has been told they will lose approximately half of what has been funded by the City in the past.

Ms. Volmert clarified that the budget package for Fiscal Year 2011-2012 includes \$40,000 for the Arts Center.

Chair Beilstein said despite the good quality of Parks and Recreation Department staff, services will suffer simply because staff cannot supply the amount of service Ms. Coucke provides for \$5,000.

The Committee unanimously recommends that Council accept the Public Art Selection Commission annual report for Fiscal Year 2009-2010.

III. Other Business

The next Human Services Committee meeting is scheduled for 12:00 pm on Tuesday, April 5, 2010 in the Madison Avenue Meeting Room.

Respectfully submitted,

Mike Beilstein, Chair

The Arts Center Annual Report to the City of Corvallis 2009-2010

Submitted by Sara Swanberg, Executive Director

The annual report before you provides highlights from The Arts Center's fiscal year, July 1, 2009 through June 30, 2010. We remain committed to addressing the arts and culture needs of this highly diverse and well-educated community and its environs.

FISCAL

The Arts Center is grateful for the past support of the City of Corvallis, and will struggle to operate at current levels without that support. As has been reported in the past, the fact that the City of Corvallis supports The Arts Center encourages granting agencies and private foundations to do the same.

While foundations and donors overall have been granting less due to the economy, during the past fiscal year The Arts Center received the following:

Oregon Community Foundation--\$8,000 for development and marketing

Collins Foundation--\$7,000 for K-12 arts education programming

Samaritan Health Services--\$50,000 for artist residencies in healthcare facilities

Private Donor--\$45,000 for at-risk youth arts programming

Oregon Arts Commission--\$15,000 for community arts services

Oregon Arts Commission--\$13,000 for k-12 arts education programming

Small grants—total \$5,850 for youth programming and for operations

It remains to be seen how donors and foundations will perceive us in coming years with the projected loss of City funding.

The Arts Center continues to seek diversification of revenue streams through grants, sponsorships, fundraisers, memberships, rentals, donations, partnerships, class and camp tuitions, sales in the ArtShop and galleries, and admission to cultural events.

The Endowment Board of Directors oversees five restricted investment funds in place to support The Arts Center programming. Currently the investments are not a source of income due to the economic situation.

Over 4,000 volunteer hours were donated to The Arts Center during the past year with services ranging from daily front desk receptionist hours, to office organization skills, to consulting and teaching, to fundraising.

Sponsorships have not fared well in this economic climate, but memberships have held relatively steady. The Arts Center ended its year well in the black, although the "Cash, end of year" figure in the financials includes restricted funds for at risk youth programming.

PROGRAMS & SERVICES

The Arts Center has a dedicated, hard-working staff of 9 individuals, 4 of which are full time. The Arts Center Exhibition Program offered to the general public 10 local, regional and national exhibitions, each with an opening reception to meet the artists, as well as a complementary cultural event such as a Brown Bag Gallery Talk and/or a reading or concert. An additional 11 exhibitions in the smaller Corrine Woodman galleries featured the work of local art guilds and guest artists.

An exciting new series, *Between the Cracks*, offered seven avante guard music concerts and literary events in a partnership with the OSU Music Department.

On site, The Arts Center offered 29 series of classes in ceramics, textiles, dance, painting and drawing serving over 330 children. Also offered were 8a.m.-5p.m. programs on all no-school days (excluding Spring Break) serving another 200 children. During this reporting year the Globetrotters Arts & Culture Summer Camp offered seven full weeks of 8a.m.-5p.m. programming serving 350 youth. We

also introduced a new weekly arts and culture program for home-school youth. The downstairs renovation which occurred in the prior fiscal year continues to serve us well.

Off site, The Arts In Education program offered 23 weeks of residencies in schools in both Linn and Benton Counties serving 4,700 children.

The ArtsCare Program placed eighteen local artists with patients in cancer and dialysis treatment areas, mental health units and Hospice situations in three counties. Artists also worked with patients' families staying short term at the Pastega House.

The ArtShop, supporting 183 local and regional artists, enjoyed a thorough renovation in the reporting fiscal year. 720 volunteer hours were tracked for the ArtShop program alone.

COLLABORATION AND LEADERSHIP

The Arts Center collaborates with many individuals and organizations. We continue to be the fiscal sponsor for Tcha Tee Man Wi, a regional storytelling festival that promotes oral traditions, strengthens community and honors diversity. We are also the fiscal sponsor for the New Horizons Band, an adult beginning and/or refresher band here in Corvallis.

This year The Arts Center partnered with the Corvallis School District, Parks & Recreation, the Corvallis Public Library, Leadership Corvallis, the Multicultural Literacy Center, the Environmental Center, a regional home-school association, Corvallis Fall Festival and daVinci Days Festival.

With Parks & Recreation, The Arts Center again co-hosted a full-day of community-centered arts and culture and recreation for the new Leadership Corvallis class. The Executive Director takes part in monthly Regional and State Arts Council conference calls, served on the Corvallis Tourism Board, the OSU Art Department Advisory Board, Benton County Cultural Coalition and the Regional ArtsCare Advisory Board. The Exhibits Curator served on the Madison Avenue Task Force, the Public Art Selection Committee and the Leadership Corvallis Curriculum Committee. The ArtsCare Coordinator served on the Regional ArtsCare Advisory Board, and the Arts Education Coordinator attended Regional and State Arts Education conferences coordinated by the Oregon Arts Commission and the Oregon Alliance for Arts Education.

The new website for The Arts Center was launched during this reporting year and is proving to be a great asset to the organization increasing our ability to engage the arts community.

The Arts Center is fortunate to have a hard-working and supportive Board of Directors; 16 individuals who offer the organization a diversified and energetic perspective.

For any questions concerning this report, please contact Sara Swanberg, Executive Director, at The Arts Center, 754-1551.

Between the Cracks

FORUM 2010-11

Sat Concerts 7pm Free to students with ID \$10 adults \$5 Arts Center Members



Nov 6 (from Berlin)

Marc Sabat

- violin/electronics

en.wikipedia.org/wiki/Marc_Sabat

Marc Sabat's work is presented internationally in radio broadcasts and at festivals of new music including the Donaueschinger Musiktage, MaerzMusik, Darmstadt and Carnegie Hall. His works do not fall into a single personal style, but they generally share a crystalline clarity of texture and a seek to focus listeners' perception of sounding structures into a process of musical 'thinking'.



Jan 15 (from Portland)

Robert Briggs

- Beat Poet

www.ruinedtime.com

Robert Briggs believes that "jazz is to music what poetry is to knowing" and continues to give reads accompanied by jazz musicians in the series of *Jazz and Poetry & Other Reasons*. In 1972, he founded Robert Briggs Associates, a loose-knit group of West Coast publishing consultants. A member of the Zen Center of Portland, Oregon, he's the author of the *American Emergency: A Search for Spiritual Renewal in an Age of Materialism*, 1989, and *Ruined Time, The 1950s and the Beat*, 2006.



Feb 19 (from L.A.)

Hans Fjellestad

- Film/Electronics

www.hansfjellestad.com

Hans Fjellestad studied music composition and improvisation with George Lewis at UCSD and classical piano with Krzysztof Brzuza. Fjellestad has composed for film, video, theater, dance and has presented his music, film and video art throughout the U.S., Canada, Europe, Japan, Taiwan, Australia, New Zealand, Mexico, Argentina and Brazil.



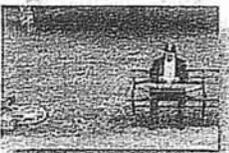
Mar 12 (from Seattle)

Lori Goldston

- Cello/Silent films

www.lorigoldston.com

Lori Goldston's restless curiosity and the adaptive sounds of her cello blur the lines of genre, time and geography. Her music reflects broad, layered interests and feelings, from fierce humor to focused chaos to hauntingly tender melancholy.



Apr 16 (from NYC)

Dan Joseph

- Electronics/Dulcimer

www.danjoseph.org

In his solo works for electroacoustic hammer dulcimer, Dan Joseph constructs quiet, contemplative soundscapes that slowly unfold over the course of 45-minutes to one-hour. Using a mix of traditional and experimental (extended) techniques in combination with his self-designed laptop-based processing system, Joseph gives this ancient instrument an entirely new and contemporary identity.



May 7 (from L.A.)

Pam Madsen

- Composer

www.pamelamadsen.com

Madsen's ritual interactive electroacoustic opera/installations works focus on the concept of transformation and transcendence in musical performance through intensive focus on the moment, voice, movement and virtuosity in conjunction with multi-media and spatialized electronics.



June 4
Sonic Possibilities
and Guests

Between the Cracks: Student Workshop on Improvisation
For the 2010-11 season finale, the Between the Cracks Forum presents Sonic Possibilities, the OSU resident contemporary ensemble, along with guest artist, Diezel P, Portland rapper and social activist.

Co-presented by The Arts Center



The OSU Music Department



The Arts
Center
www.theartscenter.net



The Arts Center
700 SW Madison Avenue
Corvallis 541-754-1551

Did You Know?!

The Arts Center building used to be an Episcopal Church, was once owned by the Elks Lodge (#1413), and was originally located where the Gazette-Times building now stands, on Jefferson and 7th.

The style of The Arts Center building is Carpenter Gothic, with a scissor truss system in which the cross beams and arches are the reverse of a railroad bridge.

The idea of a community arts center was first brought to the Corvallis Women's Club in 1960 by its president, Marian Gathercoal, who with the club's secretary, Corrine Chaves Woodman (of the Corrine Woodman Gallery), collected the first donations for the endeavor.

The Grand Opening of the Corvallis Arts Center was January 26-27, 1963. Ask Joe Malango about the bell that was rung during the ceremony!

It takes a community to create such a place as The Arts Center – then and now. Charter members included teachers, club leaders, city managers, lawyers, artists, builders.... the kind of folks still interested in making our community a meeting place for people, ideas, and art!

Among the first major contributors to the fledgling Corvallis Arts Center were Ruth and Jim Howland - whose generosity in supporting the arts in our community has continued since those days in the early 1960's. Other early contributors were Kitty Bunn, Robert Mix, Joe Malango, Elizabeth Starker, and Joe Malango.

700 SW Madison
Corvallis, OR 97333
541-754-1551

www.theartscenter.net

GALLERY HOURS

Tuesday–Saturday



The Arts Center



The Arts Center Mission

The first registered Arts Council in the State (1963), The Arts Center is dedicated to integrating the arts into community life through dynamic collaborations, innovative outreach programs, diverse exhibitions and cultural events, and creative educational opportunities.

The Arts Center Vision

Arts at the Center of Life!



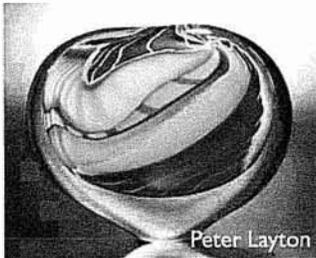
The Arts Center

Art Exhibitions ▼

Jonathan Day *Bach in Heaven*
Community OPEN 2008 Winner



The Exhibitions Program offers free to the public 10 important exhibits in the Main Gallery each year, complemented with lively and educational artist receptions. Included are the Community Open and the Around Oregon Annual which alone help to support approximately 200 artists each year. In the Corrine Woodman Gallery, works by Arts Guild artists and additional guest artists are exhibited changing monthly.



Peter Layton

ArtsCare ▼



Julie Davis at Albany General Hospital



ArtsCare in Action!



Globetrotter Camp

The ArtsCare Program contracts with 15 artists to work with hospital staff, and with patients and their families in eight health care facilities in Benton, Linn and Lincoln counties. The *Surviving to Thriving* workshops offer support to cancer survivors. Studies show involving patients in the arts speeds the healing process. A strong partnership with Samaritan Health Services makes ArtsCare possible. Funding is also sought from foundations and individual donors.

▼ Arts Education

The Arts Center offers a variety of in-house classes and workshops for children ages 3 to 13. An artist residency program places artists in schools throughout Benton and Linn counties. The Globetrotters Arts & Culture Summer Camp and no-school-day programs immerse children in a new culture each week through hands-on arts activities. These programs contract with approximately 50 artists each year and impact over 6,000 children.



Jennifer Lombers



After-school Clay Class

Eric Bailey

▼ ArtShop

The Arts Center's ArtShop provides a year-round venue for up to 200 local and regional artists to sell their work on a consignment basis. The ArtShop is a gift-oriented venue, and primarily showcases lower-priced, smaller items than The Arts Center exhibition galleries. This expands the type and number of artists that The Arts Center supports.



MEMORANDUM



To: Human Services Committee
From: Karen Emery, Director *KE*
Steve DeGhetto, Assistant Director *SD*
Date: February 14, 2011
Subject: The Arts Center Annual Report

Issue: The Arts Center is scheduled for its annual review before the Human Services Committee.

Background: The City Council allocates funds to The Arts Center for its operations through the annual appropriation of tax revenues (\$83,780 in FY 09-10). As per the current agreement between the City and The Arts Center, dated July 1, 2009, a report describing The Arts Center's effectiveness in organization and promotion is to be submitted on an annual basis. In addition, The Arts Center thru contract with Parks and Recreation provides administration for the Public Art Selection Commission.

Discussion: The Arts Center continues its commitment to addressing the arts and cultural needs of the community. The Arts Center has fostered its own growth by diversifying its revenue stream and developing new partnerships.

The Arts Center offered twenty-nine (29) on-site classes, serving over 330 children. In addition, many partnerships were refined:

- Samaritan Health Services--continued the ArtsCare program which brings art and artists into the health-care and hospice environment.
- School Districts--The Arts in Education program offered 23 weeks of residencies in Linn and Benton County, serving over 4,700 children.
- The Multicultural Literacy Center, Oregon State University, the Corvallis-Benton County Public Library, and the Corvallis Environmental Center--offered Globetrotters Arts and Culture Camp.
- Corvallis Parks and Recreation Department, Corvallis School District, Corvallis Public Library, the Corvallis Environmental Center, Leadership Corvallis (a regional home school group), Corvallis Fall Festival and daVinci days--offered a variety of art focused programs.

In addition The Arts Center Exhibition Program offered ten (10) local, regional and national exhibitions in the Main Gallery and eleven (11) exhibitions featuring the work of community art guilds and guest artists in the Corrine Woodman gallery.

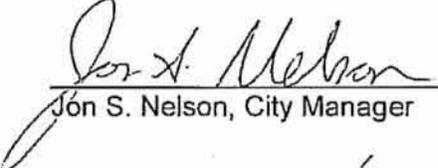
The community continues to demonstrate support by volunteering over 4,000 hours to support The Arts Center programs.

The ArtShop supports over 183 local and regional artists offering a professional marketplace to show and sell their work.

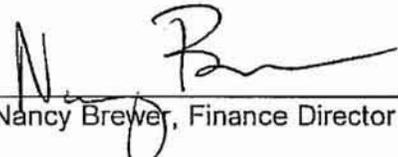
The Arts Center has continued to maintain diverse revenue streams which include funding from the City of Corvallis, the Oregon Arts Commission, Oregon Community Foundation, The Collins Foundation, Benton County Cultural Coalition, Samaritan Health Services, Cascadia Foundation, Franklin Conklin Foundation, Corvallis Kiwanis, grants, endowment funds, memberships, sponsorships, donations, class fees, ArtShop and gallery sales.

Recommendation: Staff recommends that the Human Services Committee recommend to City Council to accept The Arts Center Annual Report.

Review and Concur:



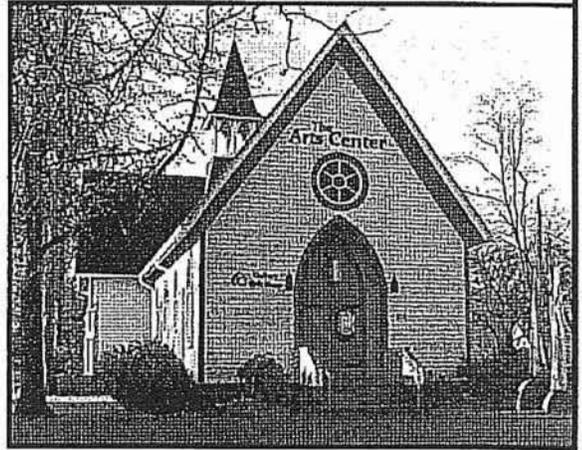
Jon S. Nelson, City Manager



Nancy Brewer, Finance Director

Attachments:

1. The Arts Center Annual Report
2. The Arts Center/City of Corvallis Agreement
3. Finance Department Financial Review Memo



The Arts Center

Annual Report
2009-2010



The Arts Center

WWW.THEARTSCENTER.NET

700 SW MADISON

CORVALLIS, OR 97333

541-754-1551

WELCOME!

The Arts Center is pleased to report a progressive and successful 2009-2010 fiscal year. While many arts organizations across the country either closed their doors or downsized, The Arts Center kept staff at capacity, programs strong, and the budget in the black. Our membership grew by 6% during the fiscal year and we received one substantial individual donation to The Arts Center Endowment, Inc. in support of Arts Education for At-Risk Adolescents. We were able to add to the economic vitality in our region by continuing to support stable staffing and programming opportunities meeting the needs of the schools, health care facilities and overall communities served, and by contracting with over 500 artists during the year. While we report a successful year in 2009-2010, The Arts Center is very concerned about the current economic affect on the organizational budget in 2010-2011.

PROGRAM STATISTICS 2009-2010 FISCAL YEAR

EXHIBITS

- 10 exhibits of artists' work in the Main Gallery.
- 11 exhibits of artists' work in the Corrine Woodman Galleries.
- Exhibited work of a total of 353 local (249) and regional (104) artists.
- Offered 12 receptions and special events at no cost to the public.
- 561 volunteer hours tracked for this program.

EDUCATION

- Contracted with artists 81 individual times for children's programming.
- Served approximately 8,000 children in schools in Benton and Linn counties, and here on site.
- Served 23 schools with artist residencies and workshops.
- On site, offered 25 after school classes, 11 all day no-school-day programs, and 7 weeks of all day summer Globetrotters Arts & Culture Camp.

ARTSCARE

- Contracted with artists 63 individual times for health care related arts programming.
- Placed artists in 11 sites in Benton and Linn counties.
- Directly served approximately 465 patients/staff.
- Indirectly served approximately 15,500 hospital patients/visitors/staff.

ARTSHOP

- Contracted with and exhibited the work of 183 artists.
- Offered 3 receptions and special events at no cost to the public.
- Promoted local artists work via 3 demonstration opportunities.
- 720 volunteer hours tracked for this program.

THE 2009-2010 BOARD OF DIRECTORS

| | |
|------------------------------|------------------------|
| Elizabeth Bell | Sara Krainik |
| Holly Bendixen | Carolyn Madsen |
| Kay Dee Cole | Lois Malango, Chair |
| Suzanne Cutsforth, Treasurer | Mary Norman |
| Jane Donovan | Mindy Perez |
| Brian Egan | Court Smith, Secretary |
| Janet Elholm, Vice Chair | Dennis Staats |
| Josh Hammer | Shirley Wirth |

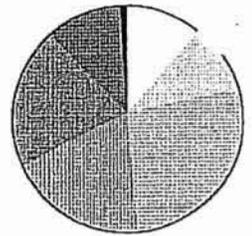
CURRENT ARTS CENTER STAFF

| | | |
|------------------|-----------------------------|----|
| Sara Swanberg | Director | FT |
| Hester Coucke | Curator | FT |
| Chris Neely | Education Coordinator | FT |
| Joni King | Graphics Coordinator | FT |
| Heather Boright | ArtShop Manager & Webmaster | .8 |
| Mary Van Denend | ArtsCare Coordinator | .5 |
| Yael Heyman | Bookkeeper & Membership | .5 |
| Suzanne Campbell | Assistant ArtShop | .3 |
| Susan Fisher | Assistant ArtShop | .3 |

FINANCIAL SUMMARY FOR 2009-2010

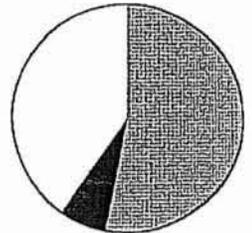
REVENUE

| | | | |
|--------------------|---|------------------|------|
| Programs | □ | \$57,105 | 12 % |
| ArtShop & Exhibits | ▤ | \$50,273 | 10 % |
| Grants | ▥ | \$134,923 | 27 % |
| City of Corvallis | ▦ | \$93,014 | 19 % |
| Member/Donations | ▧ | \$105,005 | 21 % |
| Fundraising/Events | ▨ | \$54,521 | 11 % |
| Other | ■ | \$3,694 | — |
| TOTAL | | \$498,535 | |



EXPENSES

| | | | |
|--------------------|---|------------------|------|
| Programs | ▩ | \$262,765 | 53 % |
| Fundraising/Events | ■ | \$32,106 | 7 % |
| General/Admin. | □ | \$200,394 | 40 % |
| TOTAL | | \$495,265 | |



The Arts Center was supported in part by the following organizations and foundations:

- The City of Corvallis
- Oregon Arts Commission
- The Collins Foundation
- Oregon Community Foundation
- Benton County Cultural Coalition
- Samaritan Health Services
- Cascadia Foundation
- Franklin Conklin Foundation
- Corvallis Kiwanis

The Arts Center Annual Report to the City of Corvallis 2009-2010

Submitted by Sara Swanberg, Executive Director

This annual report provides highlights from The Arts Center's fiscal year, July 1, 2009 through June 30, 2010. Significant growth has taken place within the organization and important partnerships have been developed as The Arts Center continues its strong commitment to addressing the arts and culture needs of the community. While the economy continued to be unfavorable to nonprofit arts agencies across the country, The Arts Center managed to increase its membership and grow its overall program offerings. Indeed, in the middle of an economic downturn, the arts have become an affordable fulfilling activity by offering meaningful and enjoyable life experiences.

FISCAL

The Arts Center is grateful for the support of the City of Corvallis and will struggle to operate at current levels without that support. The fact that the City of Corvallis supports The Arts Center encourages granting agencies and private foundations to do the same. During this fiscal year The Arts Center was pleased to renew the financial agreement with the City in order to be able to continue its service to the community and to not lose pace with successful growth.

While foundations have been granting less due to market downturn, the Oregon Community Foundation continued to fund growth and development at The Arts Center for the third of a three year grant at \$8,000. The Collins Foundation awarded The Arts Center \$7,000 to work with K-5 school children including those at risk through specific arts programming. Samaritan Health Services contracted for \$50,000 in arts programming serving five regional hospitals as well as cancer treatment centers and clinics in three counties. And The Arts Center received a private donation of \$45,000 to continue arts programming at Corvallis's alternative high school (College Hill) and at the Oregon Youth Authority Oak Creek facility in Albany. Several smaller grants of \$3,000, \$1,600, \$750, and \$500 were received for educational projects engaging youth in arts activities.

The Arts Center has continued to secure funding from the Oregon Arts Commission through granting programs for Community Arts Services (\$15,000) and Arts Education (\$13,000). However, because of the economic downturn, there are continued concerns about funding levels for the 2010-11 year. The Arts Center continues to diversify revenue streams through grants, sponsorships, fundraisers, memberships, rentals, donations, partnerships, class and camp tuitions, sales in the ArtShop and galleries, and admission to cultural events.

The Endowment Board of Directors oversees five funds: a General Fund, the Howland Fund to support public art in Corvallis and awards for the Howland Community Open exhibition, the Elizabeth Starker Cameron Arts Education Fund, the Bob & Kitty Bunn Fund for the ArtsCare Program, and the new Steele Family Fund designated for the Exhibits Program. The funds are beginning to recover from this economic downturn and the best policy has been to leave them untouched until the economic crisis has lifted.

Over 4,000 volunteer hours were donated to The Arts Center with services ranging from daily front desk receptionist hours to office organization skills to consulting time to fundraising.

The Arts Center's membership development program entitled Making Friends—Building Community saw good results in its third fiscal year due to well received cultural events. Those events included 9 exhibits of artists' work in the Main Gallery offering opening receptions and

lectures, a Family Series of performances, and a continually expanding 7-week children's summer camp program entitled *Globetrotters*. Sponsorships have not fared well in this economic climate, but memberships have held strong. The Arts Center ended its year well in the black, although the "Cash, end of year" figure in the financials includes restricted funds for at risk programming, and supplies and contracted expenses in July of 2010 for Globetrotters Arts & Culture Camp where income was received in the prior fiscal year (for which this report is written).

PROGRAMS & SERVICES

In this fiscal year The Arts Center Exhibition Program offered to the general public at no charge 10 local, regional and national exhibitions in the Main Gallery, each with an opening event to meet the artists, as well as a complementary cultural event such as a related Brown Bag Gallery Talk and/or a reading or concert. An additional 11 exhibitions in the Corrine Woodman galleries featured the work of local art guilds and guest artists.

An exciting new series, *Between the Cracks*, offered seven annual avante guard music concerts and literary events in a partnership with the OSU Music Department.

Through Arts Education programming, The Arts Center offered 29 on site classes in ceramics, textiles, dance, painting and drawing serving over 330 children. Also offered were all-day programs on no-school days serving another 200 children. This year the children's summer camp (Globetrotters Arts & Culture Camp) offered seven full weeks of 8:30 a.m. to 5:15 p.m. programming. Additional camp classes and space were made possible by working with our partners (Multicultural Literacy Center, OSU, the Library, and Environmental Center). This year The Arts Center began what has become a highly popular arts and culture enrichment program for home-school youth. The downstairs renovation which occurred in the last fiscal year has proven to be very successful in use and overall space appropriateness.

The Arts In Education program offered 23 weeks of residencies in schools in both Linn and Benton Counties serving 4,700 children.

The ArtsCare Program continues with \$50,000 in artist-salary funding support received from Samaritan Health Services. Eighteen local artists worked with patient groups in cancer and dialysis treatment areas, as well as expanding into mental health units and Hospice situations. Artists also worked with patients' families staying short term at the Pastega House.

The ArtShop, supporting over 183 local and regional artists by offering a professional market place to show and sell their work, enjoyed a thorough renovation in this fiscal year. The Arts Center worked with Salem Art Consultant Mary Lou Zeek during the planning process. 720 volunteer hours were tracked for this program.

COLLABORATION AND LEADERSHIP

In an effort to serve the needs of our community and to effectively maximize community resources, The Arts Center collaborates with many individuals and organizations. We continue to be the fiscal sponsor for Tcha Tee Man Wi, a regional storytelling festival that promotes oral traditions, strengthens community and honors diversity. We are also the fiscal sponsor for the New Horizons Band, an adult refresher band here in Corvallis.

This year The Arts Center partnered with the Corvallis School District, Parks & Recreation, the Corvallis Public Library, Leadership Corvallis, the Multicultural Literacy Center, the Environmental Center, a regional home-school group, Corvallis Fall Festival and daVinci Days Festival.

The Arts Center again hosted a full-day of arts and culture and recreation for the new Leadership Corvallis class. The Director takes part in monthly Regional and State Arts Council conference calls, serves on the Boards of Corvallis Tourism, the OSU Art Department Advisory, Benton County Cultural Coalition and the Regional ArtsCare Advisory. The Exhibits Coordinator serves on the Madison Avenue Task Force, the Public Art Selection Committee and the Leadership Corvallis Curriculum Committee. The ArtsCare Coordinator serves on the Regional ArtsCare Advisory Board, and the Arts Education Coordinator attends Regional Arts Education conferences coordinated at the state level by the Oregon Arts Commission and the Oregon Alliance for Arts Education.

The new website for The Arts Center was launched in January and is proving to be a great asset to the organization. www.theartscenter.net has greatly increased our ability to reach into the many areas of our community.

The Arts Center is fortunate to have a hard-working and supportive Board of Directors; 16 individuals who offer the organization a diversified perspective.

For any questions concerning this report, please contact Sara Swanberg, Executive Director, at The Arts Center, 754-1551.

CITY OF CORVALLIS AND ART CENTER AGREEMENT

THIS AGREEMENT, is entered into this 22nd day of June, 2009, by and between the CITY OF CORVALLIS, a municipal corporation of the State of Oregon, hereinafter referred to as the "CITY" and the ART CENTER, a non-profit corporation, formerly known as ArtCentric, hereinafter referred to as "THE ART CENTER."

All notifications necessary under this Agreement shall be addressed to:

City of Corvallis Parks & Recreation
Attention: Steve Deghetto
1310 SW Avery Park Dr.
Corvallis, OR 97333
541-766-6918

The Art Center
Attention: Sara Swanberg
700 SW Madison
Corvallis, OR 97333
541-754-1551

1. Term

- 1.1 This Agreement shall be effective from July 1, 2009 through June 30, 2012.
- 1.2 If this Agreement crosses fiscal years, funding for future years is contingent upon the City Council adopting appropriations.

2. ART CENTER agrees to:

- 2.1 Offer cultural arts programs including art exhibits, art classes, and other related art activities at the Art Center, located at 700 SW Madison, Corvallis, Benton County, OR.
- 2.2 Maintain a listing of art organizations in the community.
- 2.3 Conduct an Arts-in-Education Program in the community.
- 2.4 Inform the public about the arts in the community.
- 2.5 Cooperate with CITY in putting on events and activities which promote the use of the Art Center facility and CITY facilities.
- 2.6 Publish a quarterly newsletter and calendar distributed to members of THE ART CENTER, media, and citizens, informing them about the activities at the Art Center facility and CITY facilities.
- 2.7 All accounting records and evidence pertaining to all costs of THE ART CENTER and all documents related to this agreement shall be kept available at the ART CENTER office or place of business for the duration of the agreement and thereafter for three (3) years after completion of any audit. Records which relate to (a) complaints, claims, administrative proceedings or litigation arising out of the performance of this Agreement, or (b) costs and

expenses of this Agreement to which the CITY or any other governmental agency takes exception, shall be retained beyond the three (3) years until resolution of disposition of such appeals, litigation, claims, or exceptions.

- 2.8 THE ART CENTER shall provide for an independent financial and compliance audit or financial review annually for any fiscal year in which CITY funds are received under this Agreement. The results of the independent audit or financial review must be submitted to CITY within thirty (30) days of completion. Within thirty (30) days of the submittal of such audit report, THE ART CENTER shall provide a written response to all conditions or findings reported in such audit report. The response must discuss each condition or finding and set forth a proposed resolution, including a schedule for correcting any deficiency. All conditions or corrective actions shall take place within six (6) months after receipt of the audit report unless the City Manager or his/her designee authorizes an extension of time to complete such actions. Two copies of this review shall be forwarded to the CITY'S Parks and Recreation Director as part of the annual report.

In the event THE ART CENTER does not make the above-referenced documents available to the CITY, THE ART CENTER agrees to pay all necessary and reasonable expenses incurred by the CITY in conducting any audit at the location where said records and books of account are maintained.

- 2.9 THE ART CENTER shall submit a report annually by October 31st, to the City, documenting the revenues and expenditures, activities, problems, and achievements of THE ART CENTER's programs for the previous fiscal year ending June 30th. THE ART CENTER annual report shall include, but not be limited to, a description of its effectiveness in the following program areas:

- 2.9.1 Organization: Progress THE ART CENTER has made to involve the arts and the public in its activities.
- 2.9.2 Promotion: Progress of THE ART CENTER in promoting the Center as a community arts facility.

3. CITY agrees to:

- 3.1 Budget the City Council approved proportion of the CITY's property tax levy to be paid to THE ART CENTER each fiscal year that this Agreement is in effect. CITY will levy property taxes in compliance with Constitutional and statutory requirements each fiscal year during this Agreement. The City Council determines, by policy, the proportion of the CITY'S total levy to be allocated to THE ART CENTER each year. In the event that a reduction or the elimination of the appropriation for this Agreement is being considered by the CITY's Budget Commission or City Council during annual budget deliberations, CITY shall provide notice to THE ART CENTER on or before May 15th of such contemplated action. If the appropriation is eliminated THE ART CENTER shall

be relieved of all obligations described in this Agreement effective the beginning of the fiscal year in which the funds are not appropriated.

- 3.2 The CITY's Finance Department will notify THE ART CENTER's Director by April 1st each year of THE ART CENTER's portion of the CITY's estimated property tax levy for the following fiscal year, beginning July 1st.
- 3.3 The CITY's Finance Department will provide THE ART CENTER's Director with the actual revenue figure when the actual amount of taxes levied for the year is known (around mid-November).
- 3.4 Payments will be made to THE ART CENTER in the amount of \$32,000 by July 31st of each year. The payment made in December of each year will be the net amount of total THE ART CENTER property taxes as identified in section 3.3, less the \$32,000 paid to THE ART CENTER in July of each year.

All appropriations are subject to recommendation by the City Budget Commission and approval by the City Council as a part of annual CITY budget process.

- 3.5 Include THE ART CENTER facility under the CITY's property and general liability policies.

4. Liability

- 4.1 THE ART CENTER shall indemnify, protect, defend, and hold City, its officers, agents, volunteers, and employees harmless against any actions, claim for injury or damage and all loss, liability, cost or expense, including court costs and attorneys fees, growing out of or resulting directly or indirectly from the performance of this contract, except for that resulting from the sole negligence of CITY.
- 4.2 THE ART CENTER shall purchase and maintain fire damage insurance to property owned by THE ART CENTER of \$135,000 and General Liability insurance with a combined single limit, or the equivalent, of not less than \$500,000 each claim, incident, or occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Agreement, and shall be in a form at least as broad as Commercial General Liability ISO form CG 0001. It shall provide that CITY and its officers and employees are Additional Insureds, but only with respect to THE ART CENTER's services to be provided under this Agreement.

Each insurance endorsement shall state that coverage shall not be suspended, voided, or canceled by either party, reduced in coverage or in material limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to CITY.

THE ART CENTER shall furnish acceptable insurance certificates to CITY with original endorsements for each insurance policy signed by a person authorized by that insurer to bind coverage on its behalf. Certificates will be received and approved by CITY upon execution of this Agreement. The certificate shall specify the CITY and its officers, agents, employees and volunteers are Additional Insured as respects to the work under the Agreement. Insuring companies or entities are subject to CITY acceptance. THE ART CENTER shall be financially responsible for all pertinent deductibles, self-insured retention and/or self-insurance. All such deductibles, retention, or self-insurance must be declared to, and approved by, CITY.

5. Termination

- 5.1 CITY may terminate this Agreement upon sixty (60) days written notice to THE ART CENTER for failure of THE ART CENTER to fulfill its obligations under this Agreement, if such violation remains uncured after sixty (60) days from THE ART CENTER's receipt of such written notice.
- 5.2 In the event that THE ART CENTER, by majority vote of its members, decides to discontinue this Agreement, then its action, and this Agreement shall be deemed canceled sixty (60) days after the date of the notice is received by CITY and each party shall be relieved of its obligations described herein. In no event shall THE ART CENTER be obligated by this Agreement for any period of time for which the funds outlined in 3.1 and 3.2 above have not been disbursed to its account.

6. Independence

THE ART CENTER is an independent organization and entity pursuant to this Agreement and shall not, in any way, be considered to be an affiliate, subsidiary, officer, agent or employee of CITY. THE ART CENTER agrees that CITY shall not be liable or responsible for any benefits, including, but not limited to, worker's compensation, disability insurance, retirement benefits, life insurance, unemployment insurance, health insurance or any other benefits which THE ART CENTER may be required by law or contract to provide to its employees, officers, agents, or contractors. THE ART CENTER agrees that it shall not sue or file a claim, petition or application therefore against CITY or any of their officers, employees, agents, representatives or sureties with respect to such benefits. THE ART CENTER shall not have any authority to bind CITY or to make any representations or warranties to accept service of process, to receive notice, or to perform any act or thing on behalf of CITY except as authorized in writing by CITY.

7. Authority of Signatories

THE ART CENTER and THE ART CENTER's signatories represent that the signatories hold the positions set forth below their signatures and that the signatories are authorized to execute this Agreement on behalf of THE ART CENTER and to bind THE ART CENTER hereto.

8. Attorney's Fees

In the event either party shall initiate any suit, action or appeal on any matter related to this Agreement, then the court before whom such suit, action or appeal is taken shall award to the prevailing party such attorney's fees as the Court shall deem reasonable, considering the complexity, effort and result against the party who shall not prevail, and such award and all allowable costs of the event may be either added to or deducted from the balance due under this Agreement, or be a separate obligation as appropriate.

9. Assignability

This Agreement is for the exclusive benefits of THE ART CENTER and City. Any attempt to assign, transfer, or pledge by either party without the prior written consent of the remaining party shall void the Agreement.

10. Prevailing Law

This Agreement is to be governed by, and construed in accordance with, the laws of the State of Oregon.

11. Venue

Any disputes about the terms of this Agreement will be brought before the Benton County Circuit Court.

12. Waiver

Waiver of any breach of any provision of this Agreement by either party shall not operate as a waiver of any subsequent breach of the same or any other provision of this Agreement. If any portion of this Agreement is held to be invalid under any applicable statute or rule of law, then such portion only shall be deemed invalid.

13. Compliance with federal and state laws

THE ART CENTER shall have sole responsibility to comply with all applicable federal and state laws, rules and regulations concerning environmental issues in carrying out activities funded under this Agreement. If any acts or omissions of THE ART CENTER should lead to liability or government enforcement action against CITY, THE ART CENTER shall be required to defend such action and to indemnify CITY for all costs incurred including without limitation any costs of required response actions and attorney fees. CITY will not assume responsibility for compliance with federal or state environmental requirements relating to THE ART CENTER performance under this Agreement, but will cooperate to the extent practical and consistent with City Council Policy.

14. Discrimination

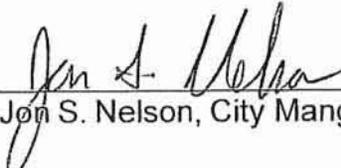
The parties agree not to discriminate on the basis of age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income in the performance of this contract.

15. Extent of Contract

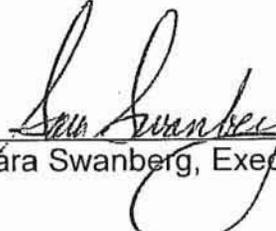
This contract supersedes any prior or contemporaneous oral or written agreements or understandings entered into by the parties. No modification of this Agreement shall be valid unless set forth in writing and signed and dated by both of the parties to this Agreement.

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

CITY OF CORVALLIS THE ART CENTER



Jon S. Nelson, City Manger



Sára Swanberg, Executive Director

APPROVED AS TO FORM:



City Attorney



Finance Department
500 SW Madison Avenue
Corvallis, OR 97333
541-766-6990
541-754-1729

MEMORANDUM

February 10, 2011

TO: Steve Deghetto, Parks and Recreation Assistant Director

CC: Julian Contreras, Financial Services Manager

FROM: Jeanna Yeager, Accountant

SUBJECT: The Corvallis Arts Center, Inc. Annual Financial Review, Fiscal Year 2010

This review consists of inquiries and analytical procedures and is limited in its nature. The Statement of Financial Position, Statement of Activities, Statement of Cash Flows, and the related Notes to the Financial Statements are unaudited financial reports that are the representation of the management of the Corvallis Arts Center, Inc. (CAC).

The June 30, 2010 financial reports were reviewed by Stover Neyhart & Co., PC, a certified public accounting firm. Stover Neyhart & Co. has not audited the financial statements and does not express an opinion or any form of assurance on the financial statements.

This review is based on CAC's fiscal year, July 1, 2009 through June 30, 2010. CAC records transactions using the accrual basis of accounting.

During the year ended June 30, 2010 CAC reported revenues of \$498,535, a slight decrease from the previous fiscal year. Expenses equaled \$495,265, resulting in a net ordinary income of \$3,270. CAC received \$93,014, 18.7% of its total revenues, from the City of Corvallis. CAC has properly accounted for all revenue received from the City.

The Corvallis Art Center reported total assets of \$102,087 and total liabilities of \$35,321, resulting in net assets of \$66,766. Of this, \$32,939 is reported as restricted.

Based on this review, acceptance of the Corvallis Arts Center's annual report is recommended.

CORVALLIS ARTS CENTER, INC
REVIEWED FINANCIAL STATEMENTS

JUNE 30, 2010

Corvallis Arts Center, Inc.
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Stover Neyhart & Co., PC

Certified Public Accountants
Registered Investment Adviser

777 NW 9th St., #408 Corvallis, OR 97330-6169
PHONE 541-754-1144 • FAX 541-757-8787

Corvallis Arts Center, Inc.
Corvallis, Oregon

We have reviewed the accompanying statement of financial position of Corvallis Arts Center, Inc. (a not for profit corporation) as of June 30, 2010, and the related statements of activities and change in net assets and cash flow for the year then ended, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. All information included in these financial statements is the representation of the management of Corvallis Arts Center, Inc.

A review consists primarily of inquiries of Corvallis Arts Center, Inc. personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with auditing standards generally accepted in the United States of America, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with accounting principles generally accepted in the United States of America.

September 13, 2010
Corvallis, Oregon



Corvallis Arts Center, Inc.
Statement of Financial Position
June 30, 2010

See accompanying notes and accountant's report

| | |
|---|--------------------------|
| Assets | |
| Current Assets | |
| Cash | \$ 77,651 |
| Accounts receivable | 14,944 |
| Inventory | 2,035 |
| Total current assets | <u>94,630</u> |
| Property and Equipment | |
| Equipment | 72,427 |
| Leasehold improvements | 22,438 |
| Accumulated depreciation | (87,408) |
| Net property and equipment | <u>7,457</u> |
| Total assets | <u><u>\$ 102,087</u></u> |
| Liabilities | |
| Accounts payable | 3,545 |
| Credit card payable | 3,446 |
| Accrued vacation | 4,985 |
| Accrued payroll | 435 |
| Accrued retirement contribution | 1,360 |
| Unearned revenue-camp tuition | 21,299 |
| Unearned revenue-gift cards | 251 |
| Total liabilities | <u>35,321</u> |
| Net assets | |
| Unrestricted | 33,828 |
| Restricted | 32,939 |
| Total net assets | <u>66,766</u> |
| Total liabilities and net assets | <u><u>\$ 102,087</u></u> |

Corvallis Arts Center, Inc.
Statement of Activities and Change in Net Assets
For the Year ended June 30, 2010

See accompanying notes and accountant's report

| | Unrestricted | Temporarily Restricted | Total |
|--------------------------------------|--------------|---------------------------|---------|
| Revenues | | | |
| Programs | | | |
| ArtSpirit | 300 | | 300 |
| Education | 50,324 | | 50,324 |
| Storytellers | | 6,481 | 6,481 |
| Satisfaction of program restrictions | 10,156 | (10,156) | - |
| Total Programs | 60,780 | (3,675) | 57,105 |
| Artshop/Gallery/Exhibit | | | |
| Gift shop and gallery sales | 50,273 | | 50,273 |
| Total Artshop/Gallery/Exhibit | 50,273 | - | 50,273 |
| Grants | | | |
| Foundation Grants | 67,784 | | 67,784 |
| Government Grants | 55,500 | | 55,500 |
| City of Corvallis | 93,014 | | 93,014 |
| Endowment | | 11,639 | 11,639 |
| Satisfaction of program restrictions | 11,639 | (11,639) | - |
| Total Grants | 227,937 | - | 227,937 |
| Memberships and Contributions | | | |
| Donations/Contributions | 33,115 | 45,000 | 78,115 |
| Membership fees | 26,890 | | 26,890 |
| Satisfaction of support restrictions | 37,611 | (37,611) | - |
| Total Memberships and Contributions | 97,616 | 7,389 | 105,005 |
| Fundraising/Special Events | | | |
| Chocolate Fantasy | 49,287 | | 49,287 |
| Fall Festival | 138 | | 138 |
| Winter Show | 1,000 | | 1,000 |
| Other events | 4,096 | | 4,096 |
| Total Fundraising/Special Events | 54,521 | - | 54,521 |
| Other Revenues | | | |
| Facility rental | 2,995 | | 2,995 |
| Interest income | 51 | | 51 |
| Administration Fee | 648 | | 648 |
| Total Other Revenues | 3,694 | - | 3,694 |
| Total Revenues | 494,821 | 3,714 | 498,535 |

Corvallis Arts Center, Inc.
Statement of Activities and Change in Net Assets
For the Year ended June 30, 2010

See accompanying notes and accountant's report

Expenses

Programs

| | | |
|----------------|---------|---------|
| Education | 61,496 | 61,496 |
| ArtsCare | 51,488 | 51,488 |
| Artshop | 28,098 | 28,098 |
| Exhibits | 11,527 | 11,527 |
| Storytellers | 10,156 | 10,156 |
| Total Programs | 162,765 | 162,765 |

Fundraising/Special Events

| | | |
|----------------------------------|--------|--------|
| Chocolate Fantasy | 14,721 | 14,721 |
| Winter Show | 8,001 | 8,001 |
| Other events | 9,384 | 9,384 |
| Total Fundraising/Special Events | 32,106 | 32,106 |

General and Administrative

| | | |
|--------------------------------------|---------|---------|
| Advertising/Marketing | 7,226 | 7,226 |
| Artist relations | 84 | 84 |
| Bank charges | 3,667 | 3,667 |
| Building maintenance | 3,302 | 3,302 |
| Cost of goods sold | 383 | 383 |
| Depreciation | 2,823 | 2,823 |
| Dues, subscriptions, fees | 2,377 | 2,377 |
| Equipment maintenance | 1,408 | 1,408 |
| Equipment purchase | 888 | 888 |
| Insurance | 3,732 | 3,732 |
| Office expense | 3,279 | 3,279 |
| Other | 26 | 26 |
| Payroll, taxes and employee benefits | 252,764 | 252,764 |
| Postage | 1,100 | 1,100 |
| Professional development | 1,662 | 1,662 |
| Professional services | 2,103 | 2,103 |
| Security | 464 | 464 |
| Travel | 328 | 328 |
| Utilities | 12,113 | 12,113 |
| Volunteers | 665 | 665 |
| Total General and Administrative | 300,394 | 300,394 |

| | | |
|----------------|---------|---------|
| Total Expenses | 495,265 | 495,265 |
|----------------|---------|---------|

| | | | |
|----------------------------|-------|-------|-------|
| Net ordinary income (loss) | (444) | 3,714 | 3,270 |
|----------------------------|-------|-------|-------|

Corvallis Arts Center, Inc.
Statement of Activities and Change in Net Assets
For the Year ended June 30, 2010

See accompanying notes and accountant's report

| | | | |
|-----------------------------------|------------------|------------------|------------------|
| Increase (Decrease) in Net Assets | (444) | 3,714 | 3,270 |
| Net Assets at Beginning of Year | 14,576 | 48,921 | 63,496 |
| Current year adjustment (note 5) | 2,446 | (2,446) | - |
| Prior year adjustment (note 6) | 17,250 | (17,250) | - |
| Net Assets at End of Year | <u>\$ 33,828</u> | <u>\$ 32,939</u> | <u>\$ 66,766</u> |

Corvallis Arts Center, Inc.
Statement of Cash Flow
For the Year Ended June 30, 2010

See accompanying notes and accountant's report

Cash flow from operating activities

| | | |
|--|----|---------|
| Increase in net assets | \$ | 3,270 |
| Adjustments to reconcile changes in assets to net cash provided by operating activities: | | |
| Depreciation and amortization | | 2,823 |
| Increase in accounts receivable | | (8,748) |
| Decrease in inventories | | 478 |
| Increase in equipment | | (250) |
| Decrease in accounts payable | | (2,050) |
| Increase in accrued expenses | | 8,962 |
| Net cash provided by operating activities | | 1,215 |
| Net Increase in cash | | 4,485 |
| Cash, beginning of year | | 73,166 |
| Cash, end of year | \$ | 77,651 |

Corvallis Arts Center, Inc.
Notes to Financial Statements
For the Year Ended June 30, 2010

Note 1 - Nature of Activities and Significant Accounting Policies

Nature of Activities

Corvallis Arts Center, Inc. (the Organization) is a non-profit organization with a mission to nurture artistic expression and to enhance the creative life of the community. This mission is carried out through such programs as exhibitions, performances, extensive on-site arts and culture programming for children, an ArtsCare program serving health care facilities, and the promotion and sale of artists' work through exhibitions and the ArtShop. Sources of income include grants, memberships, sponsorships, class and event fees, and artwork sales commissions.

Basis of Accounting

The Organization uses the accrual method of accounting to record transactions, which matches revenues against the appropriate expenses.

Accounts Receivable

Management considers accounts receivable to be fully collectible; accordingly no allowance for doubtful accounts has been established.

Property and Equipment

Property and equipment acquisitions are capitalized at purchase price or estimated fair value if donated. Depreciation is computed using the straight-line method over the assets' useful lives.

Inventory

Inventory consists of items purchased and held for resale and is valued at cost. A physical inventory is taken annually. Consigned goods are not included in inventory.

Advertising Costs

Advertising costs are expensed as incurred.

Income Taxes

Corvallis Arts Center, Inc. is a not-for-profit organization exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code.

Financial Statement Presentation

Under Statement of Financial Accounting Standards (SFAS) No. 117, Financial Statements of Not-for-Profit Organizations, the Organization is required to report information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets.

Corvallis Arts Center, Inc.
Notes to Financial Statements
For the Year Ended June 30, 2010

Note 1 - Nature of Activities and Significant Accounting Policies (cont.)

Contributions

Under SFAS No. 116, Accounting for Contributions Received and Contributions Made, contributions received are recorded as unrestricted, temporarily restricted, or permanently restricted net assets depending on the absence or existence and nature of any donor restrictions.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Note 2 - Temporarily Restricted Funds

The Organization received \$51,481 in temporarily restricted funds for the year ended June 30, 2010. These funds were provided to fund educational art programs and activities. Expenses totaling \$47,767 were incurred against that income during the year. Two adjustments were made to the restricted funds (see note 5 and 6). A \$2,446 decrease to the Storytellers and a \$17,250 decrease in the Ovregaard Fund. This left a balance of \$ 32,939 as overall total for the temporary restricted funds.

Note 3 - Economic Dependence

The City of Corvallis provided support totaling \$93,014 for the year ended June 30, 2010. The amount of such support is determined annually within the City budget. Future support from the City is planned by the City with an executed contract dated July 2009 to June 2012 to provide Corvallis Arts Center, Inc. with \$32,000 per year.

Note 4 - Endowment Fund

In February 2001 a separate supporting organization known as The Arts Center Endowment, Inc. (formerly known as ArtCentric Endowment, Inc.) was formed to manage the endowed funds. Net transfers of \$136,593 were made from the Corvallis Arts Center, Inc. to The Arts Center Endowment, Inc. at the time of separation. The Arts Center Endowment, Inc. provides fiscal support to the Organization. During the fiscal year ended June 30, 2010, the Organization received \$11,639.

Corvallis Arts Center, Inc.
Notes to Financial Statements
For the Year Ended June 30, 2010

Note 5 - Current year adjustment

In the current fiscal year an adjustment of \$2,446 was made to the Storytellers restricted account from the Unrestricted General Fund. This adjustment was for prior years net income for the fund that was never transferred after the year end.

Note 6 - Prior Year Adjustment

In the current fiscal year it was discovered that the Ovregaard Fund (a temporary restricted account) was to be used to fund the payroll on certain projects in development. The total amount of \$17,250 should have been deducted from this fund. This is a one time adjustment out of the Ovregaard Fund to the Unrestricted Fund from which the original expenses were claimed.

Note 7 - Lease Agreements

In the current fiscal year Corvallis Arts Center, Inc. entered into a lease agreement with Copytronix for new equipment. The lease commencing on 2/26/10 is for 60 months at \$52.71 per month.

THE ARTS CENTER ENDOWMENT, INC.

REVIEWED FINANCIAL STATEMENTS

JUNE 30, 2010

The Arts Center Endowment, Inc.
Table of Contents

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Stover Neyhart & Co., PC

Certified Public Accountants
Registered Investment Adviser

777 NW 9th St., #408 Corvallis, OR 97330-6169
PHONE 541-754-1144 : FAX 541-757-8787

To the Board of Directors
The Arts Center Endowment, Inc.
Corvallis, Oregon

We have reviewed the accompanying statement of financial position of The Arts Center Endowment, Inc. (a not for profit corporation) as of June 30, 2010, and the related statements of activities and changes in net assets and cash flow for the year then ended, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. All information included in these financial statements is the representation of the management of The Arts Center Endowment, Inc.

A review consists primarily of inquiries of The Arts Center Endowment, Inc. personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with auditing standards generally accepted in the United States of America, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with accounting principles generally accepted in the United States of America.

August 31, 2010
Corvallis, Oregon

Stover Neyhart & Co., PC

The Arts Center Endowment, Inc.
Statement of Financial Position
As of June 30, 2010

See accompanying notes and accountant's report

| Assets | <u>2010</u> |
|--------------------------------------|-------------------|
| Current assets | |
| Cash and cash equivalents | \$ 9,373 |
| Investments | <u>213,235</u> |
| Total current assets | <u>\$ 222,608</u> |
| Liabilities | |
| Current liabilities | |
| Due to Corvallis Arts Center | <u>11,189</u> |
| Total current liabilities | 11,189 |
| Net assets | |
| Unrestricted | 88,305 |
| Temporarily restricted | 49,537 |
| Permanently restricted | <u>73,577</u> |
| Total net assets | <u>211,419</u> |
| Total liabilities and net assets | <u>\$ 222,608</u> |

The Arts Center Endowment, Inc.
Statement of Activities and Change in Net Assets
For the Year ended June 30, 2010

See accompanying notes and accountant's report

Unrestricted net assets

| | |
|--|----------------|
| Unrestricted revenues | |
| Contributions | \$ - |
| Investment return | 3,620 |
| Total unrestricted revenues | <u>3,620</u> |
| Unrestricted expenses | |
| Corporation fee | 50 |
| Legal and accounting fees | 2,000 |
| Oregon revenue and fund balance fees | 30 |
| Total unrestricted expenses | <u>2,080</u> |
| Other unrestricted income (expenses) | |
| Net unrealized income (loss) on investments | 8,626 |
| Transfers of funds to Corvallis Arts Center | (4,600) |
| Total other unrestricted income (expenses) | <u>4,026</u> |
| Increase (decrease) in unrestricted assets | <u>5,566</u> |
| Temporarily restricted net assets | |
| Temporarily restricted revenue | |
| Contributions | 150 |
| Investment return | 2,177 |
| Total temporarily restricted revenue | <u>2,327</u> |
| Other temporarily restricted income (expenses) | |
| Net unrealized income (loss) on investments | 5,163 |
| Transfers to Arts Center | (6,360) |
| Total other temporarily restricted income (expenses) | <u>(1,197)</u> |
| Increase (decrease) in temporarily restricted assets | <u>1,130</u> |

The Arts Center Endowment, Inc.
Statement of Activities and Change in Net Assets
For the Year ended June 30, 2010

See accompanying notes and accountant's report

Permanently restricted net assets

| | |
|--|------------|
| Permanently restricted revenue | |
| Contributions | 650 |
| Investment return | 2,872 |
| Total permanently restricted revenues | 3,522 |
| Other permanently restricted income (expenses) | |
| Net unrealized income (loss) on investments | 6,642 |
| Transfers to Arts Center | (679) |
| Total other permanently restricted income (expense) | 5,963 |
| Increase (decrease) in permanently restricted asset: | 9,485 |
| | |
| Total increase (decrease) in net assets | 16,181 |
| Net assets at beginning of year | 195,238 |
| Net assets at end of year | \$ 211,419 |

The Arts Center Endowment, Inc.
Statement of Cash Flow
For the Year Ended June 30, 2010

See accompanying notes and accountant's report

Cash flow from operating activities

| | |
|--|-----------------|
| Increase (decrease) in net assets | \$ 16,181 |
| Adjustments to reconcile change in net assets to net cash provided by operating activities: | |
| Increase (decrease) in payables | 10,002 |
| Net unrealized (gain) loss on investments | <u>(20,432)</u> |
| Net cash provided by operating activities | 5,751 |

Cash flows used by investing activities

| | |
|--|-----------------|
| Purchase of investments | <u>(7,291)</u> |
| Net cash used by investing activities | (7,291) |
| Net decrease in cash and cash equivalents | <u>(1,541)</u> |
| Cash and cash equivalents at beginning of year | 10,914 |
| Cash and cash equivalents at end of year | <u>\$ 9,373</u> |

The Arts Center Endowment, Inc.
Notes to Financial Statements
For the Year Ended June 30, 2010

NOTE 1--Nature of Activities and Significant Accounting Policies

Nature of Activities

The Arts Center Endowment, Inc. (the Organization) is a supporting organization created to benefit Corvallis Arts Center. The Endowment was formed in February 2001 upon the receipt of funds and investments transferred from Corvallis Arts Center.

The Organization is a nonprofit organization as described in Section 501(c)(3) of the Internal Revenue Code and is exempt from federal and state income taxes.

Basis of Accounting

The Organization maintains its accounts on the accrual basis of accounting, which matches revenue against appropriate expenses.

Investments

Under SFAS No. 124, *Accounting for Certain Investments Held by Not-for-Profit Organizations*, for investments in marketable securities with readily determinable fair values, unrealized gains and losses are included in the change in net assets.

Cash and Cash Equivalents

The Organization considers all highly liquid investments available for current use as cash equivalents.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Contributions

Under SFAS No. 116, *Accounting for Contributions Received and Contributions Made*, contributions received are recorded as unrestricted, temporarily unrestricted, or permanently restricted net assets depending on the absence or existence and nature of any donor restrictions.

The Arts Center Endowment, Inc.
Notes to Financial Statements
For the Year Ended June 30, 2010

NOTE 2—Temporarily and Permanently Restricted Funds

Temporarily restricted funds include the Elizabeth Starker Cameron Arts Education Fund and the Bob and Kitty Bunn ArtsCare Fund. For the year ended June 30, 2010, contributions in the amount of \$150 were donated to the Bunn ArtsCare Fund. In addition, \$6,360 was transferred (expended) to The Corvallis Arts Center from the Bunn ArtsCare Fund. The ending balances for these funds were \$ 14,786 and \$34,751 respectively.

Permanently restricted funds include the Howland Endowment and the Steele Family Fund. For the year ended June 30, 2010 there were contributions of \$650 to the Steele Family Fund. In addition, \$179 and \$500 was transferred (expended) to the Corvallis Art Center from the Howland Endowment and the Steele Family Fund respectively. The ending balances for these funds were \$24,380 and \$49,197 respectively.

MEMORANDUM

To: Human Services Committee
From: Karen Emery, Director *KS*
Stephen DeGhetto, Assistant Director *ad*
Date: February 14, 2011
Subject: Public Arts Selection Commission Annual Report

Issue: The Public Arts Selection Commission (PASC) is scheduled for its annual report to the Human Services Committee.

Background: The Public Arts Selection Commission was established by Council in 1998 to oversee the selection, acceptance and placement of public art in the City of Corvallis consistent with Council policy. The Commission is comprised of 7 citizen voting members and a City Council liaison. To facilitate the coordinated effort of the City's public artwork projects, the City contracts with The Arts Center to staff and oversee the Commission's meetings and activities through Hester Coucke, The Arts Center Assistant Director/Curator and City liaison to the Public Arts Selection Commission. The contractual amount paid to The Arts Center to perform this work is \$5,000 per year, which is funded and appropriated in the Parks and Recreation Department budget.

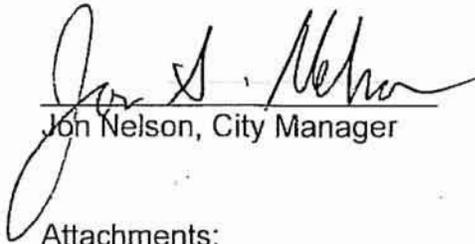
Discussion: The Commission met three (3) times between July 2009 and June 2010. Sarah Krainik is the current chair of the Commission. Current new members are Cheryl O'Deay the member at large, and Shelly Moon represents the Arts and Cultural Commission. City Councilor Joel Hirsch is the current Council liaison.

The Commission has been involved with a number of projects this past year, including the review of City Council Polices; 98-4.12 and 94-4.07, art selection for the Library lobby by Michele Gutlove, and a mosaic in the outdoor stairwell of the Arts Center.

Citizen volunteers on the Commission continue to provide invaluable expertise and oversight to forward the community's values supporting public art. Cooperatively, citizen volunteers, The Arts Center and the Arts and Cultural Commission advocate the importance of public art.

Recommendation: Staff recommends the Human Services Committee recommend to City Council to accept the Public Arts Selection Commission's annual report.

Review and Concur:



Jon Nelson, City Manager



Nancy Brewer, Finance Director

Attachments:

- PASC Cover Letter
- PASC Annual Report
- PASC Minutes
 - March 11, 2010
 - May 13, 2010
 - May 26, 2010



The Arts Center

700 SW Madison Avenue • Corvallis, Oregon 97333
541.754.1551 • www.theartscenter.net

1/19/2011

Human Services Committee
Corvallis City Council
PO Box 1536
Corvallis OR 97339

Human Services Committee:

Enclosed you will find a report on the projects the Public Art Selection Commission and liaison staff worked on from July 1, 2009 to June 31, 2010.

The Commissioners selected a design for a hanging artwork in the Library Lobby was selected; Michele Gutlove from Massachusetts won the commission.

Commissioners reviewed City policy 98-4.12, with 2 changes in language.

Commissioners approved an outdoor mosaic depicting a dragon in the outdoor stairwell of The Arts Center.

Sincerely,

Hester Coucke
City liaison Public Art Selection Commission
The Arts Center

Annual Report
Public Art Selection Commission, City of Corvallis
July 1, 2009 – June 31, 2010

The Public Art Selection Commission (PASC) met three times during July 1, 2009 – June 31, 2010:
March 11, May 13 and May 26, 2010.

- PASC staff delivered the donation of a Mandala on the City of Corvallis by Susan Cohen, Jim Howland and Pegasus Galleries to the Fire Station, which was its final destination.
- One new member was added to the Commission: Cheryl O'Deay, member at large. Parks and Recreation staff and PASC liaison updated the list of Commissioners and streamlined communication lines.
- PASC Liaison had a long conversation with a young citizen who had ideas on how to improve – temporary- public art for young people, and become a part of the (then still to be formed) Arts and Culture Commission. The citizen in question had requested a meeting with the mayor for a similar purpose. The ideas were not very focused, at times contradicted each other, and in general would have been complicated to execute.
- PASC Liaison worked with Park and Recreation Department on the case of the missing otter by Pete Helzer, a sculpture located in the Riverfront Park.
- PASC Liaison responded to The Alchemist about the question if painting sculptures is vandalism or art.
- PASC Liaison worked with Library staff on the call to artists for the Library mobile.
- The meeting of 3/11/2010 was held to select small group of artists to develop a design for the Library Lobby mobile. The artists were selected from existing work. Each artist received a stipend for the design process; PASC Liaison contracted with the 4 artists to do so.
- PASC Liaison had extensive conversations with each artist on details, and visited the Library location with Public Works Bob Fenner and artists to review details of the space in person.
- The meeting of 5/13/2010 was held to select the final design for the Library Lobby. PASC liaison generated the contract and routed it for review, approval and signing through the City Legal Department, The Library Foundation and the artist.
- The meeting of 5/26/2010 was held to review Policy 98-4.12, which generated 5 points of attention, but only two language changes.
- Furthermore on the meeting of 5/26/2010 the Commissioners approved a wall mosaic depicting a dragon in the outdoor stairwell of The Arts Center. The Commissioners would like to see it named.

City of Corvallis
Public Art Selection Commission
Date: March 11, 2010

Attendance:

Shelley Curtis
 Sara Krainik
 Paul Rickey Jr.
 Megha Shyam
 Cy Stadvold, chair
 Joel Hirsch

Absent:

Ross E Parkerson
 Cheryl O'Deay

Liaison:

Hester Coucke

Visitors:

Jacky Schreck, Library Foundation
 Carolyn Rawles-Heiser,
 Library director
 Mary Finnegan
 Mary Norman, Library staff

SUMMARY OF DISCUSSION

| Agenda Item | Information Only | Held for further review | Action/ Recommendations |
|-----------------------------|------------------|-------------------------|---|
| II. Approval of Minutes | | X | Minutes approved as submitted |
| III. Visitors' Propositions | | X | Four artists were selected to develop a design proposal for a mobile in the Library lobby. |
| IV. Staff Reports | | X | On suggestion of Mike Beilstein the commissioners will look into the re-instating of a graffiti wall. |
| V. Adjournments | X | | The meeting was adjourned at 4:45 |

CONTENT OF DISCUSSION

1. CALL TO ORDER

Cy Stadvold, chair called the meeting to order at 3:00 PM. The meeting was called to select an artist from a Request for Qualifications for an artwork in the Corvallis Benton County Public Library. The Call to Artists requested an artwork in the form of a mobile in the apex of the lobby stairwell to accentuate the location as a welcoming space.

2. APPROVAL OF MINUTES

The minutes of the May 2009 meeting were approved as submitted.

3. VISITORS' PROPOSITIONS

Ten artists sent images, resumes, budgets of comparable projects, see attached excel file. The Commissioners reviewed packages at the meeting, and several Commissioners had looked at artist's websites prior to the meeting. Library staff and Foundation representation had an opportunity to give input, although were not voting. Ms. Schreck (Foundation) mentioned that when she was on the Library Committee which initially selected artwork for the Library, the current location was included to receive artwork. At that time an artist was selected, but the artwork was never realized.

The Commissioners selected 4 artists to be invited to develop a design proposal: Christopher Morrison from Morrison Glass Art, Bellingham; Nicki Sucec, Anvil Art Studios from Seattle; Matthew Richards from Ekko Mobiles; Portland and Michele Gutlove from Natick, MA . From one of these finalists the Commissioners hope to select a design proposal for execution and installation.

Megha Shyam made a motion, Sara Krainik seconded; motion to invite these 4 passed unanimously.

Comments on artists/ artists teams:

Heather Frazier, Portland:

The work was relatively small scale and made of paper. The Commissioners were concerned with scale, durability of the materials and maintenance.

Mark Allison and John Eberhardt, Corvallis: The Commissioners could not see the two styles combined; they saw it as a difficult collaboration. The style of wood seemed heavy and counter intuitive to the required lightness of the mobile.

Paul Rickey Jr. refrained from voting, since he knows one of the artists well.

Christopher Morrison, Bellingham:

Megha Shyam has concerns about maintenance. There are also concerns about weight. Cy Stadvold feels that glass always looks different, which would keep interest in the final work high. He did feel the liaison should ask the artist to limit the design language of Dale Chihuly, in which studio the artist has worked.

Nicki Sucec, Seattle:

The Commissioners feel that this work has real potential. Library staff really likes the work as it organically fits within the site (of the shown work). Shelley Curtis remarked

that the artist approaches each situation with a fresh start and designs something very much for that space. She also feels that this artist pays good attention to the fact that this artwork will have multiple viewpoints: below, above and from aside. The artist has chosen interesting and lightweight materials: aluminum and mica.

Nicky Falkenhayn and Susan Kristoferson, Portland:

The Commissioners couldn't translate the images into the request for the mobile. They felt the work would not have the required transparency, even knowing the artists would use smaller elements.

Library staff liked the sculpture by Nicky Falkenhayn and would like to keep her "on file".

Scott Haycock, Provo, UT:

The work was reviewed as similar to that of Ekko Mobiles, see below. The Commissioners found this work to be too much "out of a catalogue" and not interesting from all views.

Matthew Richards, Portland:

Reminiscent of Scott Haycock, (they started out together as students) and both their work of Alexander Calder as well. The Commissioners found that Richards took his work a step further, and introduced transparent materials as well. The designs seem playful.

Michelle Gutlove:

The artist is very eager and interested to do artwork for a library. The Commissioners thought her approach to glass very different from Morrison. They have concerns if she can translate her flat designs into a 3 dimensional design. The artists had communicated with the liaison that she is thinking about NW foliage, and making the lobby look lush.

4. STAFF REPORTS

The Commissioners discussed the possibility of finding another location to re-instate a graffiti wall. This was a suggestion of Councilman Beilstein at the annual PASC report presentation to the Human Services Commission. The Riverfront was determined as a good location. The first step would be to find a property owner interested and willing to have a graffiti wall on/at their property. Cy Stadvold will ask Steve Weiler and Eric Blackledge. Both Cy and Joel Hirsch will ask Rich Carone. Joel also suggested that this could be an interesting project for the new Benton County Historical Museum. Staff will inquire with Mater Engineer what their procedure and experiences were.

5. ADJOURNMENT

Meeting adjourned at 4:45 PM

Next meeting 3:00 PM at the Library Board Room, May 13, 2010

City of Corvallis
Public Art Selection Commission
Date: May 13, 2010

Attendance:

Shelley Curtis
Sara Krainik
Ross E Parkerson
Cy Stadvold, chair
Megha Shyam
Paul Rickey Jr.
Joel Hirsch, City Council

Staff:

Hester Coucke

Absent:

Cheryl O'Deay

Visitors:

Charlie Tomlinson, Mayor

Library Foundation:

Betty McCauley

Keane McGee

Jacque Schreck

Kay Enbom

Library staff:

Carolyn Rawles-Heiser, Exec. Dir.

Mary Norman

Mary Finnegan

Representative donor family:

Steve Larson

SUMMARY OF DISCUSSION

| Agenda Item | Information Only | Held for further review | Action/ Recommendations |
|-----------------------------|------------------|-------------------------|---|
| II. Approval of Minutes | | X | |
| III. Visitors' Propositions | X | | Michele Gutlove's proposal of artwork for the Library Lobby was selected. |
| IV. Staff Reports | | | |
| V. Adjournments | X | | The meeting was adjourned at 5:30 PM |

CONTENT OF DISCUSSION

1. CALL TO ORDER

Called the meeting to order at 2 Pm by Chair Cy Stadsvold

3. VISITORS' PROPOSITIONS

The commissioners reviewed proposals from four artists who were selected at the March 11 meeting to prepare a more specific proposal for the Library Lobby.

Christopher Morrison, Morrison Glass from Bellingham, WA showed a movie of his hot shop, working in blown glass. He showed images of older work, also previously seen by commissioners in his initial submission, while giving a narrative of the existing pieces. He commented on low maintenance (occasional annual dusting) and replacement of broken pieces without cost. One of his previous pieces has become an icon in a bookstore in Anacortes, which is what he aims for to happen in Corvallis as well.

Morrison designed two options and showed computer generated drawings of both, as well as showing samples of glass. He took the commissioners upstairs to show them how the actual glass will respond to the light in the lobby, reflection and scale. He plans to construct a stainless steel armature hanging from cables from the four corners of the cupola, with a total weight of 250 Lb (80 lbs was given as the maximum in the prospectus hanging from the apex of the cupola). Both options consist of hand blown glass tubes and disks. In option #1 the disks hang from individual cables forming a spiral around the tubes in the center; in option #2 the disks hang in groupings from armatures around the center tubes. The design intends to keep the skylight visible and to scale in relation to the space. The glass would be made in a rainbow of colors, going from warm to cool. Different color combinations are open for discussion. The spiral symbolizes a stream of information, which is the essence of a Library.

Morrison does not expect that the mobile will move much; there will not be enough air current to move the relatively heavy glass pieces.

During the evaluation commissioners did not have many comments on this proposal.

There were remarks of it being too busy, overpowering, and too scary to walk under.

There was some dust concern, but the size of the pieces and how substantial they are, would make them easier to clean. The work might be in the way of changing light bulbs.

Nicki Sucec from Seattle, WA brought a model of her submission: three open cylinders, fitting within each other, made of thin copper colored tubing. The outside measurement of the structure will be 9 feet diameter and 17 feet high. The structures will be filled with ± 500 wing shaped pieces of mica suspended from monofilament or thin stainless steel cables, the wings measuring from 11 inches to 6 inches. Towards the top the wings would be smaller, and less plentiful as to enhance the sense of distance. The wings would give the effect of a flock of birdsspiraling upwards into the cupola. Sucec presented her design through a model and a collage of options for wing shapes made from laminated mica with flight charts (charts are a metaphor for a form of language, an essential part of a Library). She connected the mobile with Corvallis specific bird

species, birding, local copper mining (color of the tubing). There are two options for wing shapes: a flat silhouette of geese wings, or more structured of osprey.

Sucec expects a lot of movement in the piece. All three cylinders move independently, and the mica wing shapes will be so light that the merest breeze or movement below will make them swirl. The structure will be out of reach from the 1st and 2nd floor, as well as the stairs. Maintenance will consist of carefully dusting with a feather duster.

Sucec took Commissioners upstairs where the mica samples reflected the light, and the scale of the 17 feet tall cylinder became more clear.

During the deliberation there was concern that the artist would not be able to pull it off, but concerning the design words as "phenomenal", "intriguing", "elegant", "sophisticated" and "subtle" were used. Commissioners found it the most unique, most likely to involve movement, but were concerned about the lack of mass and impact. The subtlety was also its weak spot: library staff thought it too monochromatic, the wing sizes too small. Comm. Stadvold was not impressed with the theme for the library. There were also concerns about maintenance and difficulty in dusting the small, light components.

Ekko Mobiles, Matt Matthews and Ben Gogdill from Portland have engineering and architecture backgrounds. They specialize in mobiles, and have often been part of larger projects, but were excited to see a direct call for a mobile.

They visited the location to get a good feel of how to respond to the space and the meaning of the Library in the community, and came to a list of "do's" and "don'ts" (see proposal). They noticed high use by kids and teens of the Library, and anticipated the physical interaction these groups would create: reaching, touching, throwing things at the artwork (the artists have made many mobiles, and have encountered all of the above). They noticed connections from in the building to the outside (view of the park, connection with the Belluchi wing).

Ekko Mobiles brought a scale model that showed the movement of the mobile in real life and a computer simulation of how one would experience the mobile in the space walking into the lobby, to the cupola, up the stairs and around the opening in the second floor. The simulation showed views from the mobile, and how viewpoints changed during this "travel." The mobile consists of a number of vertical rectangular shields connected to horizontal rods, all hanging in balance in a two tier composition measuring at the higher part 8 feet in diameter, at the bottom 6 feet in diameter and 15 feet high; the panels are 25x8 inches and 18x11 inches. The panels simulate the pages of books. The materials used were chosen for a wide color choice (still open for discussion), durability, impact resistance, clean construction options and maintenance. The rods are made of aluminum pipe, the shields of "3form", a resin that simulates glass. It is transparent, colorful, shatterproof, comes in a variety of textures, and reflects light as fused glass does. The reflection of the "3form" pieces will interact with the colorless glass tiles in the balustrades of the stairs and 2nd floor.

The mobile is very susceptible of air currents and will move easily with slow circular movements, playing of itself. The designers included an electric operated wrench to lower and raise the mobile for maintenance or repair.

Jacque Schreck, who was on the original Library Design Committee, mentioned that the designers picked up on elements that the original architects intended

(connections with outside, interplay with balustrade). Commissioners liked the movement and thought the design well thought through, considering the space well. Commissioners thought kids would like the simplicity of the design. One commissioner thought the individual pieces were dull and the colors boring. (Colors in the model were made of opaque instead of transparent material in red, blue and yellow; a fan of color samples was passed around for other color choices).

Michele Gutlove's (Natick, Massachusetts) inspiration was the Siuslaw forest, her piece titled "*Siuslaw Sun Shower*". She brought a scale model to demonstrate how the piece would look. The artwork consists of a large number of hand formed pieces of glass attached to strands of stainless steel cable hanging from a circular frame. The overall shape is a large circular transparent column hanging in the space; the column measures 14 feet tall and 9 feet diameter. Some of the glass pieces will be made from dichroic glass, positioned in the upper part of the column creating a field on a 30° angle as to simulate sunrays coming through the tree canopy. The artist showed with the use of flashlights how the dichroic glass would sparkle in the light. She passed a tray around of individual pieces true to size in different colors of green, blue and yellow. The circular frame is a truss of aircraft aluminum, which will be hanging from eight points to divide the weight. The construction would match the original architecture. The truss consists of two rings, connected with tubes forming a triangular pattern. The artist did not expect that the piece would show movement, other than in an earthquake. The total weight of the piece would be 88lbs (80 lbs hanging from the apex of the cupola was given as maximum in the prospectus), but could be made lighter by using dichroic resin. The pieces of glass would be covered by a product to make it behave as safety glass. Cy Stadvold suggested that the bottom of the piece could be made concave or convex to add interest, the artist concurred. The artist suggested renting a lift to clean the cupola at the same time as her installation, and share costs.

This design was considered the most artistic of the four, with a real "wow" factor, an inspiring signature piece for the library, "something one could write about." There was a comment that the evenly spaced strands could look like a "corn field", and perhaps long strands could entangle. The truss was not deemed very attractive.

Megha Shyam moved to accept Michele Gutlove's proposal, Sara Krainik seconded the motion. Without objections, the motion was unanimously accepted by Commissioners Shyam, Krainik, Stadsvold and Curtis. Commissioners Parkerson and Rickey had to leave early. Non-voting representatives of Library staff and Foundation were pleased with the selection.

5. ADJOURNMENT

Meeting adjourned at 5:30 PM

Next meeting May 26, 4 Pm at The Arts Center, dance floor

Agenda Public Art Selection Commission, City of Corvallis
May 26, 2010

@ The Arts Center Dance floor

4PM

Mayor Charley Tomlinson

Approval of minutes March 11, 2010

Approval of minutes May 13, 2010

Review of City Policy, CP 98-4.12

Review dragon wall mosaic @ The Arts Center

New Biz

Adjournment

**City of Corvallis
Public Art Selection Commission
Date: May 26, 2010**

Attendance:

Shelley Curtis
Ross Parkerson
Paul Rickey Jr.
Cy Stadvold, chair

Absent:

Sara Krainik, excused
Cheryl O'Deay
Joel Hirsch, City Council
Megha Shyam

Staff:

Hester Coucke

Visitors:

Charlie Tomlinson, Mayor
Sara Swanberg,
Director of The Arts Center

SUMMARY OF DISCUSSION

| Agenda Item | Information Only | Held for further review | Action/ Recommendations |
|----------------------------|------------------|-------------------------|--|
| II. Approval of Minutes | X | | Minutes of March 11 and May 13, 2010 approved as submitted. |
| III. Staff Reports | X | | Review of Policy CP 98-4.12 generated five points of attention. Change: 4.12.044 Call for Proposals or Qualifications, paragraph b. 7), "photos or slides" should be replaced with "digital images". Change: Artwork Donation Form, where Witness Signature should be added to make it a legal document. |
| IV. Visitors' Propositions | X | | Commissioners unanimously approved a mosaic mural of a dragon at The Arts Center. |
| V. Adjournments | X | | The meeting was adjourned at 4:55 PM |

CONTENT OF DISCUSSION

1. CALL TO ORDER

Chair Cy Stadvold called the meeting to order at 4:05 Pm.

Mayor Charlie Tomlinson has taken the opportunity of May being Volunteer Month, to welcome Commissioners and express his appreciation for their volunteerism, especially Cy Stadvold, chair and Megha Shyam, who both served three consecutive terms of three years on the commission and will be leaving the Commission by July 1, 2010. The Mayor introduced Sidney Snell who has been invited to be on the commission and came to the meeting as a public observer.

Enough commissioners were present to make a quorum.

2. APPROVAL OF MINUTES

The minutes of the meetings of March 11 and May 13, 2010 were approved as submitted. Ross Parkerson remarked they were very good and thorough minutes. He asked to have the E. eliminated from his name.

3. STAFF REPORTS

Commissioners reviewed Policy 98-4.12. which created five points of attention, all brought up by Shelley Curtis.

4.12.010 Purpose paragraph d. Ms. Curtis asked if the text of paragraph d. referred to the jury process of the Library Lobby artwork, where a number of non-committee members were present. Staff explained that it went back to the history of the Riverfront Park, and the collaboration between the Riverfront Design Review Commission (no longer in existence) and the Public Art Selection Commission. The tasks and responsibilities of the two committees overlapped at times, and weren't always clearly defined. The current text of the policy 4.12.010, paragraph d. is formulated to clarify where the final jurisdiction lies.

4.12.030 Art Selection Criteria c. This item concerns a maintenance (and repair) fund. Past director Parks and Recreation Julee Conway communicated with Public Art Selection Commission liaison that it is undesirable to have a sum of money designated and potentially unused in a City budget. In reality the maintenance of the artwork is folded into the regular budget, in the same way as the artwork is insured by the general City insurance. See the occurrence of the theft of the otter (fortunately brought back to Parks and Recreation offices), which would have been covered by City's insurance.

4.12.044 Call for Proposals or Qualifications, paragraph b. 7) "Photos or slides of previous work" should be changed to "Images of previous work", since slides or photo's are seldom used anymore, and the majority of *Calls for Proposals or Qualifications* require digital images. By using just the word "images" all methods will be covered.

Ms. Curtis remarked that 4.12.044 Call for Proposals or Qualifications, paragraph c limiting the number of visitors to three to review meetings was a good one and should be followed. At the May 13 meeting for the Library Lobby artwork selection eight visitors were present, which seemed excessive. Commissioners felt that what the visitors brought forth was valuable, but that it restricted their own time and opportunity for

deliberation. Public Art Selection Commission liaison mentioned that there were more representatives of the Library Foundation than she had expected.

Ms. Curtis, as the Oregon State University Art in Agriculture collection curator mentioned that the collection at Oregon State University has a practice of having a witness signing their artwork donation paperwork, as an extra protection for the University. She suggests doing the same with the City's Artwork Donation Form. Commissioners concurred.

4. VISITORS' PROPOSITIONS

Sara Swanberg, Director of The Arts Center brought a request for approval of a mosaic mural in the outside stairwell of The Arts Center to the Commission. The mural depicts a dragon, designed by Globetrotters Arts and Culture Camp instructor Keith Moses and executed by children taking part in the Globetrotters Camp. After Ms. Swanberg read her proposal (see attached) and showed images of the process, the Commissioners took a look at the dragon mural itself. Commissioners were very taken by the mosaic; it is a colorful surprise, in the same vein as the Alley Art Surprises: suddenly it is there.

The possibility to direct people to the dragon mural was brought up, but argued against. It seemed better in character to keep it a surprise for those who use the building, and not direct, or attract attention to the bottom of the stairwell as to prevent illicit use of the space.

The Commissioners felt there was no need to paint the concrete which would require ongoing maintenance. The contrast between the rough character of the concrete and the colorful artwork made the entire rendition more attractive and characteristic: a colorful sparkly beast in a rough surrounding.

Ms. Swanberg asked for **a.** an approval for 5 year period, or **b.** an approval for permanent installation. The Commissioners opted for option **b.** a permanent installation. Ross Parkerson made a motion to accept the dragon mosaic mural, with the stipulation that a plaque will be added stating:

1. Title or Name of the Dragon
2. Name of the artist
3. Name or reference to participating children (individual names, or Globetrotter week they were participating in)
4. Date

Paul Rickey Jr. seconded, there were no objections. The Public Art Selection Commissioners unanimously approved the dragon mosaic mural at The Arts Center.

Cy Stadvold brought up that the naming of the dragon could be a good project for The Arts Center, in making it a competition with some kind of a prize. Ross Parkerson added that the competition should not be limited to children, but also open to adults. Ms. Swanberg picked up on the suggestions favorably.

5. ADJOURNMENT

There was no new business.

Meeting adjourned at 5:55 PM

Next meeting TBA

Pink, cuz today, it just goes with the fashion.

Last week's issue featured a cover photo of a local ballerina statue that was spray painted pink. We wanted to know what you thought.

It is not that I don't like pink, but I did not appreciate finding the Ballerina in front of The Arts Center partly painted pink. The artist of the sculpture, Raymond Hunter, created a bronze, and selected a specific patina for it. If he had wanted a polychrome sculpture, he could have asked the foundry to do that. So, painting the skirt and shoes is the equivalent of painting over a painting in a museum. Somehow that sounds more outrageous than painting the skirt and shoes of a sculpture pink, doesn't it? But it really isn't. Self-expression doesn't revile others artwork, it respects it.

The "unknown" did this very carefully and deliberate, with forethought. I wish that the "unknown" had that same forethought about what the consequences for this action would be.

Three staff people from Parks and Recreation were involved in cleaning up the Ballerina, as well as the train in Avery Park. This is taking P&R staff away from their regular task, and is consequently costing extra money. In the current climate of city budget crises and Parks and Rec cutting their budget and staff severely, I don't think it is funny, or "pretty cool" to make this kind of unnecessary work.

P&R staff tried to get all the paint off, but without the really harsh chemicals needed a pink sheen is still there. They had no choice; working harder on the patina surface would have compromised the patina and would require refinishing the sculpture where it is. The last time (2005) I asked for a quote for a smaller sculpture, it came to \$1,500 + travel, not including the environmental clean-up required after it. To do something that requires environmental clean up so close to a park and playground full of young kids is far from ideal, but would have been the only financially viable option. To take a sculpture down and have it re-patinated at a foundry would cost a couple of thousand dollars.

And even though this was done with forethought and deliberation I see it is a thoughtless and inconsiderate action, and yes definitely vandalism.

Hester Coucke, Curator
Public Art Selection Commission liaison for the City of Corvallis
The Arts Center
700 SW Madison Ave.
Corvallis, Oregon 97333
541-754-1551

The Difference Between Art and Vandalism

We only had one response to our inquiry about what the difference between art and vandalism is, which you can read in this issue.

As a supporter of all artists, it's hard to want to side against graffiti artists, but I think we've shown in the last two issues the distinct difference between art and vandalism.

Nobody cleans up art. We just let it be. People don't spend hours attempting to scrub artwork off of a wall or a statue, as with last week's cover image. That said, I would argue that the spray painting of Corvallis' ballerina, though not art, in itself was still artistic. The pink did bring the sculpture to life, and in a consequence free environment we would be probably be able to appreciate it as art, but because someone still needs to clean up the mess, it'll never be art. (Had the artist approached the city and told them what he/she wanted to do and agreed to clean it up regardless of how much it cost and how long it took, though a hard sell, they might have said, "Go for it.")

Yes, you can argue about exceptions in which a plain wall is taken over by an incredible artist and the city or owner decides to paint over it because that's just their policy. That artist could've possibly done the same work on a wall with the blessing of the owner and the city and it would forever be a part of our community. Intention is something that always comes to mind when thinking of art and music. What is the motive? What is the artist driving at? What are they expressing? Is the graffiti artist expressing civil disobedience or desire to have their work seen and appreciated? Is the artist attempting to show us not to covet things too closely and change is inevitable? Are we to remember that freewill drives us all and sometimes acting out is an attempt to remind us that we are truly in control of our lives?

There are clever ways to get these points across without having to step on the toes of other artists, as was the case with the spray painted ballerina.

If the city wants to prevent vandalism, create better outlets for such forms of expression. Sure, putting it in the confines of a specific wall will feel like packing it into a box, but do local skateboarders resent the city for providing a skate park for them to discourage doing tricks off of city property? I doubt it.

Hopefully other business owners will take a cue from Red Hat Construction and allow the talents of local artists to be expressed.

Here is to making Corvallis a community of respectful expression.

Cheers,
Noah

MEMORANDUM



To: Mayor and City Council
From: Karen Emery, Director | 66
Date: March 24, 2011
Subject: Oregon Arts Commission Cultural Tourism Grant - Grant Acceptance

Issue:

The Parks and Recreation Department applied for grant funding through the Oregon Arts Commission Cultural Tourism Grant Fund. The grant agreement requires the recipient's governing body to authorize the application through a resolution and identify a staff member to act in connection with the application.

Background:

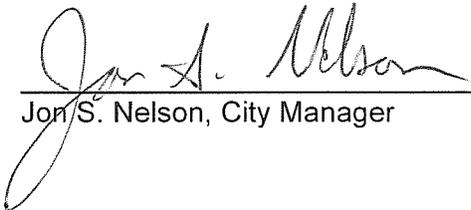
Parks and Recreation is planning a new event ARTists in the PARKS as a fundraiser for the Department's youth arts and crafts programs. This event is a comprehensive event on a non-football weekend in early September that will increase local tourism in Corvallis. This event fit well with the Oregon Arts Commission Cultural Tourism Grant vision, goals, and purpose. The grant was written and submitted by staff on January 31, 2011.

Parks and Recreation received notice on March 22, 2011 that they have been awarded \$4,400.

Recommendation:

To accept the resolution for grant funds of \$4,400 from the Oregon Arts Commission Cultural Tourism.

Review and Concur:



Jon S. Nelson, City Manager



Nancy Brewer, Finance Director

RESOLUTION 2011

Minutes of the April 4, 2011 Corvallis City Council meeting, Corvallis, Benton County, Oregon

A resolution submitted by Councilor _____.

WHEREAS, the Oregon Arts Commission is awarding funding in the form of sub-grants from the National Endowment for the Arts; and

WHEREAS, The Oregon Arts Commission has awarded a grant to Corvallis Parks and Recreation in the amount of \$4,400; and

WHEREAS, Corvallis Parks & Recreation desires to use these grant funds for a program called “ARTists in the PARK”; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES

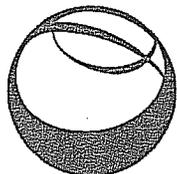
that the Corvallis Parks and Recreation Department be authorized to accept \$4,400 from the Oregon Arts Commission for the “ARTists in the PARK” program.

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted, and the Mayor thereupon declared said resolution to be adopted.

March 14, 2011

RE: FY2011-CTG-10235



OREGON ARTS
COMMISSION

Deb Curtis
Corvallis Parks & Recreation
1310 SW Avery Park Dr
Corvallis, OR 97333

Dear Deb,

Congratulations! The Oregon Arts Commission has completed its review of 22 applications for Cultural Tourism grant funds. Of the thirteen awards, I am pleased to inform you that Corvallis Parks & Recreation is receiving a grant of \$4,400.00.

Two copies of the Grant Agreement are enclosed. Please review and verify that the tax identification number and other contact information are correct, sign both Agreements and return ONE copy of the Agreement to the Arts Commission no later than April 16, 2011.

The final report for your grant is due within 30 days of the end of the granting period, no later than March 31, 2012. The final report form will be available online at www.oregonartscommission.org by this summer. We are very interested in photographic documentation of your project as we build public value for the arts in Oregon, so please submit digital images as your project progresses and with your final report. Email JPG or GIF-500 dpi minimum electronic images, with appropriate identification and credit.

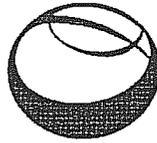
As the recipient of public funds it is important to remember to provide appropriate acknowledgement of the Oregon Arts Commission and National Endowment for the Arts in your print and electronic media. The credit language is contained in the grant agreement; we will provide you with digital logos upon request.

Again, congratulations. Please contact me at (503) 229-6062 or Shannon.planchon@state.or.us if you have any questions about the agreement.

Sincerely,

Shannon Planchon
Assistant Director

775 Summer Street NE, Suite 200
Salem, Oregon 97301-1284
503-986-0082 Tel
503-986-0260 Fax
1-800-735-2900 TTY
<http://www.oregonartscommission.org>



OREGON ARTS
COMMISSION

March 14, 2011

FY11-CTG-10235
\$4,400.00
CFDA #45.025
Tax ID#93-6002145

Corvallis Parks & Recreation
1310 SW Avery Park Dr
Corvallis, OR 97333

GRANT AGREEMENT

Execution of this document by authorized officers constitutes a mutual Agreement between the Oregon Arts Commission, hereinafter referred to as the "COMMISSION" and Corvallis Parks & Recreation, hereinafter referred to as the "RECIPIENT." This Agreement is based upon application number FY11-CTG-10235, which is adopted by reference in this agreement. This award is a sub-grant from the National Endowment for the Arts, and the funds may not be used as a match for other federal funds.

Upon receipt of this document, and after receipt of any reports due to the Commission, the Commission will release all funds for this FY11 grant following the start date of the granting period. Grant funds are to be expended during the grant period March 1, 2011 and February 29, 2012. This agreement is void if it is not returned, signed, to the Arts Commission office within 30 days.

The Recipient's assurances are a part of the consideration for and are relied upon in connection with all financial assistance given by the Oregon Arts Commission and the National Endowment for the Arts. The State of Oregon and the United States shall have the right to seek judicial enforcement of these assurances, which are binding on the RECIPIENT, its successors, transferees, and assignees, and on the authorized official whose signature appears below.

The Recipient warrants and assures that:

1. It possesses legal authority to accept the grant. A resolution, motion, or similar action has been duly adopted by the Recipient's governing body, authorizing the application and identifying an official authorized to act in connection with the application.
2. Funds paid by the Commission shall be expended according to authorized purposes, wage levels, audit requirements, and limitations, on the matching basis as provided in the approved budget summary. Amended budgets shall require the approval of the Commission.
3. The Recipient agrees to submit a completed *Final Evaluation Form* for this project on forms provided and return it to the Commission *within thirty (30) days of the close of the granting period*.
4. In carrying out its responsibilities under this grant, the Recipient shall not deny benefits to or discriminate against any person on the basis of race, color, creed, religion, national origin, sex, disability, or sexual preference, and shall comply with all requirements of federal and state civil rights statutes, rules and regulations including:

- Ⓞ Title VI of the Civil Rights Act of 1964 (42 USC 200d et. seq.).
 - Ⓞ Section 504 of the Rehabilitation Act of 1973 (20 USC 794).
 - Ⓞ Title IX of the Education Amendments of 1972 (20 USC 1681 et. seq.).
 - Ⓞ All applicable regulations of the National Endowment for the Arts and the Oregon Arts Commission.
 - Ⓞ Americans with Disabilities Act of 1990 (42 USC sections 12101 to 12213).
 - Ⓞ ORS 659.400 to 659.460 relating to civil rights of persons with disabilities.
5. All regulations and guidelines applicable to acceptance and use of Federal or State funds for the approved project will be obeyed.
 6. All records required by the audit guidelines shall be kept and retained for three years. Such records shall be available to the Commission, its authorized agents, or auditors upon request.
 7. All publicity, visual or oral, for this project shall be accompanied by the Oregon Arts Commission logo and this language: *"This project is supported in part by a grant from the Oregon Arts Commission and the National Endowment for the Arts, a federal agency."*
 8. Recipient will be obligated by these assurances for the period during which Federal or State assistance is extended, with two exceptions:
 - a. If any personal property is acquired with National Endowment for the Arts or Oregon Arts Commission assistance, Recipient will be obligated for the period during which it retained ownership or possession of that property.
 - b. If any real property or structure is acquired with National Endowment of the Arts or Oregon Arts Commission assistance, Recipient shall be obligated for as long as the property or structure is used by Recipient, its successors or assignees.
 9. Recipient agrees to indemnify and hold harmless the Oregon Arts Commission, the State of Oregon, the individual members of the Commission and the Commission's agents and employees from and against any and all claims suits or actions of whatever nature resulting from or arising out of the activities of the recipient or its subcontractors, agents or employees under this grant.

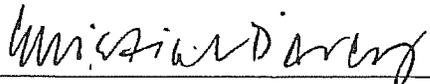
Acknowledged and agreed to by:

Recipient Signature

Date

Printed Name

Oregon Arts Commission:



Christine D'Arcy
Executive Director

3-15-2011

Date

Memorandum

To: Mayor and City Council

From: Ken Gibb, Community Development Director 

Date: March 31, 2011

Subject: Staff Response to Council Questions from the March 21, 2011, Brooklane Heights Public Hearing

During the March 21, 2011, public hearing on the Brooklane Heights Conceptual and Detailed Development Plan, and Tentative Subdivision Plat (PLD06-00018, SUB06-00006), the written record was held open for seven days to provide additional time for the public to submit testimony. Deliberations on the subject application were scheduled to occur during the noon meeting on April 4, 2011. Because the Council did not deliberate on the same evening as the public hearing, the Council asked staff to prepare responses to preliminary Council questions to be considered during the April 4, 2011, deliberations.

Questions asked by Councilors during the public hearing, or via email following the close of the public hearing, are presented below, followed by staff responses. The responses are purposely brief, and at Council's request staff is prepared to elaborate on these responses during deliberations.

Councilor Beilstein

Mass grading could occur before individual lot grading. Will there be protection from erosion if development of the site does not continue beyond the mass grading?

Yes. The grading activities will require the applicants to obtain erosion control permits. The permits will require preventative measures such as silt fences, mulching, and/or sediment barriers on drainage structures. The developers will also be required to re-establish vegetation on disturbed soils. Erosion control measures will be required in relation to any grading on the site, including mass grading and individual lot grading.

Is there a failure in the storm plan regarding Brooklane Park Estates with drainage from the undeveloped Brooklane Heights property? What impact will Brooklane Heights have on Brooklane Parks Estates, more water, less water?

Knowing that the proposed Brooklane Heights development is largely in an undeveloped state, the drainage coming off of the land represents the natural drainage patterns. Staff are aware that when Brooklane Park Estates was developed there were problems associated with the drainage coming off of the Brooklane Heights property. Brooklane Park Estates developers did not account for the drainage off of the hillside above them. It is staff's understanding that additional grading/ditching was done on the north side of the

access road behind Brooklane Park Estates to address the drainage from the hillside and this has, for the most part, addressed the issues.

The development of Brooklane Heights will intercept a portion of the stormwater from the subject site and direct it into engineered drainage facilities. Those facilities will direct the water into existing public storm drainage pipes located within Brooklane Park Estates. The surface water coming off the hillside into Brooklane Park Estates should be lessened.

The development of the Brooklane Heights site is unlikely to adversely impact the native stands of trees through changes in stormwater patterns. Looking at neighboring developments such as Fairhaven Heights and County Club Heights where streets and lots were developed not just around stands of Oregon White Oaks, but within them, the trees appear to be healthy. Further from the site, but developed similarly to Brooklane Heights with curbed streets and piped drainage systems, the Witham Hill area has developed within stands of Oregon White Oaks and those trees also appear to be healthy.

Did staff consider the optimal location of the detention facilities? Did the large Oak play into the decision?

Staff extensively reviewed the applicant's plans for locations of the storm drainage facilities. Detention and water quality facilities need to be located down stream of development in order to mitigate the impacts associated with the development. The Central detention vault and associated water quality facility and piping have a limited area that it can be located within because they need to be down slope and down stream of the development, and above the public storm drain inlet provided by Brooklane Park Estates. Considerations for slopes, grading, access to the vault, setbacks, compatibility, and impacts to trees were considered in locating the proposed facilities.

When evaluating the applicant's proposal, all of the affected significant trees were considered, including the 48" Oak. It should be noted that according to previously submitted tree inventories, there are other 48" Oak trees present on the site.

The proposed location of the central detention vault in Tract B places it between two lots. Those two lots are higher in elevation than the proposed vault due to the natural topography. If the proposed vault were to move down slope, the two lots would appear higher than what is proposed. With the vault acting as "fill", the height difference is lessened. Also, with the vault in the proposed location, the fill slope against the vault will line up with the fill slope for the lot to the east. If the vault were moved down slope, it would visually protrude more from the topography.

Councilor O'Brien

Is the Council required to consider the stormwater plan in concert with the individual lot grading plans?

The applicant is required to comply with Conditions of Approval 20 and 27. Condition of Approval 27, states:

Lot Grading and Structures -Mass grading shall be limited to the areas shown on the grading plan identified as Drawing X – Brooklane Heights Grading and Tree Preservation Plan, and Drawing Y – Brooklane Heights Cut/Fill Analysis (Exhibits D.1, 2). Cuts and fills in the areas permitted to be mass graded shall not exceed the measurements shown in Drawing Y. All mass graded areas, as shown in Drawing Y shall be engineered and constructed such that retaining walls are neither required nor used.

Prior to grading and excavation activities in areas not approved for mass grading, as shown in Drawing Y (Exhibit D.2), the applicant shall obtain approval by the City Council through a public hearing review process, detailing how the grading plan(s) for development on individual lots are consistent with Comprehensive Plan Policy 4.6.7.

In Staff's view, this condition does not require lot grading plans to be submitted at the same time as stormwater plans. It does require areas not previously approved to be graded to be evaluated through a public hearing process to determine consistency with Comprehensive Plan policy 4.6.7. To install the proposed stormwater facilities, it is necessary to grade in areas outside of what was previously approved. Consequently, the applicant provided detailed grading plans (using 1-ft contours) associated with the installation of the stormwater facilities. This grading plan was evaluated by Staff and the City Council through a public hearing process. Staff believe the grading plan is consistent with Comprehensive Plan policy 4.6.7 and meets the requirements of Condition of Approval 27.

Plans for residential subdivision applications are evaluated to determine if the existing or proposed public stormwater system can accommodate stormwater generated from proposed lots. The Brooklane Heights applicant has designed their stormwater system accordingly, based on conservative estimates of the volume of stormwater that would be directed into the public system from impervious surface areas on all proposed lots. Therefore, the stormwater impacts resulting from individual lot development and grading have been accommodated by the proposed stormwater system. In addition to this review, when individual lots are developed, stormwater will be required to be managed to City standards through the Building Permit process. In summary, the proposed stormwater system has been designed to accommodate the total volume of stormwater generated on the site, including lots, and when each lot is developed it will be required to meet stormwater management standards of the Building Code.

What is the affect of individual lot grading on the drainage plan?

The proposed drainage plan takes the mass graded and future individual lot grading into consideration. Individual lot grading should not have an adverse impact on the site's drainage plan. It is the City's policy that when individual lots develop they provide drainage from the site to a weep hole in the curb. Storm drainage would then be directed into the engineered storm drainage system. Individual lot grading will typically be done to provide a flat(er) lot for development. The nature of a flat lot will aid in the ability to drain the lot to the weep holes in the curbs. For most of the lots located below the roads, dedicated storm drainage pipes are proposed on the low sides of the lots to drain into, making a direct connection to the engineered drainage system. Pipes have been "sized" to allow of this stormwater to flow from all lots within the development.

Public testimony asserts that the stormwater proposal is not sufficient since the exact location of water pipes on lots has not been shown, and placement of 12 inch pipes on the back of lots will affect stormwater plans. Please respond to this concern.

The location of all proposed pipes has been shown in the stormwater plan, including information about pipe sizes. Where required due to the site's topography, private pipes located at the backs of lots are proposed and shown. Those pipes will be used for private lot drainage, such as roof down spouts. Typically, water from impervious surfaces on individual lots is collected and piped to weep holes in the curbs. In many cases, lots on the downhill side of streets can not drain to the street. Those lots, in this proposal, will require an individual connection to the proposed pipes located at the back of the lots and the connection will be reviewed with the Building Permits. Calculations used in developing the proposed stormwater plan accounted for water from the entire site, including lots. The information provided by the applicant demonstrates that the proposed stormwater plan complies with applicable standards in Appendix F of the Stormwater Master Plan, as required by Condition of Approval 20.

Are some Significant Trees as defined by the LDC more significant than other Significant Trees?

Under the 1993 Land Development Code, which is the applicable Code for this application, trees with trunk diameters of 8 inches or greater are considered Significant. The Code does not define any degree of significance beyond that. The site contains approximately 454 Significant Trees. Under the current proposal approximately 385, or 85% of Significant Trees will be preserved. Of the Significant trees to be preserved at least 3 are greater than 40 inches in diameter, including two trees that are 48 inches in diameter; approximately 13 trees are between 30 - 39 inches in diameter; and, approximately 44 trees are between 20 - 29 inches in diameter. The remaining Significant trees have trunk diameters of between 8 - 19 inches. Most Significant trees will be in Tracts that will not be developed except for required stormwater facilities. These open space tracts contain tree groves and account for approximately 42% of the total project site.

Several pieces of addition written testimony were submitted after the close of the public hearing. Please respond to issues raised in testimony.

Staff will thoroughly review written testimony and will be prepared to respond to Council questions regarding the context and relevancy of this testimony, as appropriate.

Councilor Raymond

Explain the proposed storm water system. Did Parks have a recommendation for drainage to the wetlands? What is the effect of the proposed storm drainage to the wetlands?

Proposed streets within the development will intercept a portion of the existing stormwater flows on the surface of the site. Along with the streets, roofs and driveways will also collect stormwater. The stormwater will be directed to gutters along the streets to catch basins and the engineered storm drainage system. There are three basins on the site, an east, central, and west, each with its own stormwater system. The engineered system, through pipes and open channels, will direct stormwater to the three detention vaults and StormFilter vaults before being directed to the existing stormwater system on Brooklane Drive and through Brooklane Park Estates. The existing system directs stormwater into the Marys River Natural Area wetlands.

Parks and Recreation staff have been involved in the review and discussion of the applications from the beginning. Knowing that the development will be required to meet City standards for detention and water quality, they have not expressed any concerns.

The development should have no effect on the storm drainage to the wetlands. City standards require that stormwater flow rates will be released from the site at pre-developed conditions for the 2 year through 10 year storm events. The applicant's design exceeds the City's standards. Water quality to the wetlands should not be affected with the implementation of the City's water quality standards. The applicants have chosen a facility that exceeds the City's standard of 70% removal of Total Suspended Solids.

Councilor Hervey

What sort of maintenance and long term costs are involved with the proposed facilities?

The detention vaults will be constructed out of reinforced concrete. The industry typically expects an 80 to 100 year life from these types of structures. Structure maintenance may include grouting or patching of cracks and spalls in the concrete. Routine maintenance (once every several years) will involve the removal of accumulated sediment from the bottom of the vault. This work will typically be done with a vector truck by City crews. This type of work is already being performed by City crews and existing equipment on catch

basins, manholes, and existing underground detention tanks. Costs should be comparable to maintenance of detention ponds that would require sediment removal with an excavator and the need to reestablish vegetation.

The StormFilter vaults are also constructed out of reinforced concrete and should have a design life similar to the above. The manufacturer recommends yearly inspections and maintenance every 2 to 3 years. The City crews and existing equipment will likely be performing the maintenance on these facilities. Per the manufacturer, replacement cartridges cost \$65 each. Besides replacing the cartridges, the units will be cleaned out with a vactor truck, just like a catch basin would be cleaned out with the same equipment. The manufacturer also stated that if the City was to contract out the entire maintenance operation, it would cost less than \$275 per cartridge at each occurrence that maintenance is performed.

What is the life of the filters and how much do they cost to replace?

Per the above and per the manufacturer, filter cartridges typically last 2 to 3 years and cost \$65 each. This project has a total of 10 filter cartridges proposed. If a private contractor performed the required maintenance it would cost approximately \$2750 every two to three years to replace cartridges and clean the units (10 cartridges x \$275). Funding to maintain public stormwater facilities comes from stormwater utility fees.

Could staff clarify the warranty bond?

The warranty bond required on stormwater facilities is for 2 years after acceptance of the facility by the City. This warranty bond goes hand in hand with a Stormwater Facilities Agreement. The agreement states that the developer shall be responsible for the warranty and maintenance of the facility for 2 years. At the end of the 2 year warranty period, City staff conduct an inspection of the facility, noting any deficiency in the structure or maintenance needs. If any deficiencies are found, the developer is notified. Once maintenance or repairs have been performed to the satisfaction of the City, the facilities are removed from warranty and the bonds are released to the developer. At this point the City takes full ownership of the facility, including maintenance and repair.

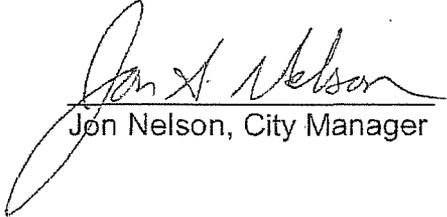
Councilor Hogg

Condition 20 (from Order #2010-0007) talks about infiltration facilities being a recommended means of meeting water quality requirements, however it also talks about not infiltrating on slopes of more than 10%. The site is generally more than 10%. How does this condition apply to this site?

The City's Land Development Code requires that detention facilities maximize infiltration. Because of this, most conditions of approval regarding detention facilities include a statement about infiltrating stormwater. However, the City's Stormwater Master Plan,

Appendix F states that infiltration shall not be allowed in areas with slopes over 10%. In the case of this application, the geotechnical report specifically recommends against infiltration and recommends lining open facilities. Because it is a goal of the City to promote infiltration of stormwater, conditions of approval often contain language about infiltration, even though in this case it is not feasible.

Review and Concur

A handwritten signature in cursive script that reads "Jon Nelson". The signature is written in black ink and is positioned above a horizontal line.

Jon Nelson, City Manager

Gibb, Ken

From: Gibb, Ken
Sent: Monday, April 04, 2011 8:53 AM
To: Ward 3
Cc: Nelson, Jon; Young, Kevin; Richardson, Robert; City Attorney Brewer
Subject: RE: Mitigation / Compensating benefits

Good morning Richard,

In the current LDC (2006) there are requirements to provide compensating benefits for requested variations from Code standards. This provision was not in the 1993 LDC, which applies to this application. In this case the applicant is not requesting to vary from standards in their request to remove additional trees. The applicant is requesting to remove trees in order to install a stormwater system. Removing these trees should be evaluated against the tree preservation criteria in (1993) LDC Section 4.2.20.c, which says that significant trees should be preserved "to the greatest extent practicable", and against Comprehensive Plan Policy 4.6.7, which is the criteria identified in Condition of Approval 27. As we noted in the staff memo responding to Council questions, 85% of the 454 trees on the site that are classified as significant, will be preserved under the proposal before the Council.

The applicant is removing 14 trees near the large detention vault, and one tree near the stormwater pipe in Tract C. The applicant proposes to replace the 14 removed trees with 14 new trees. Staff has recommended a condition of approval requiring two trees to be planted to replace the one tree removed near the stormwater pipe.

As proposed and conditioned, Staff has concluded the trees on the site are being preserved to the greatest extent practicable, and the replacement trees help the proposal achieve consistency with Comprehensive Plan Policy 4.6.7. Of course, the Council will make the final decision on consistency with the policy through this land use decision.

I hope that this response is helpful.

Ken

From: ward3 [mailto:ward3@council.ci.corvallis.or.us]
Sent: Sunday, April 03, 2011 2:58 PM
To: Gibb, Ken; Nelson, Jon
Subject: Mitigation / Compensating benefits

Kenn,

Early on in my council service I worked to obtain an understanding of what is meant by "compensating benefit". My memory is that a compensating benefit under the current LDC for Corvallis is whatever the council determines to be a compensating benefit. Is that correct?

In tomorrow's council decision we are asked to approve "mitigation" of the removal of 14 trees which were planned to be saved in the previous decision by the planting of 14 new trees. Could you provide some guidance on what "mitigation" means in this context? Is it the earlier land code's version of "compensating benefit" and thus open to council interpretation? Or is there more guidance available?

Richard

Jim Brewer

From: Jim Brewer
Sent: Monday, April 04, 2011 10:24 AM
To: 'Susan Morre'
Subject: RE: Brooklane Heights Deliberations

Hi, Susan:

Requests for our office to provide legal advice in general and written work product need to come from the City Council or Staff.

Having said that, here are the definitions of "conflict of interest" and "potential conflict of interest" from the Oregon Revised Statutes. They seem fairly clear:

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

(3) "Business with which the person is associated" means:

(a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;

(b) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(c) Any publicly held corporation of which the person or the person's relative is a director or officer; or

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

(4) "Candidate" means an individual for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is printed on a ballot or is expected to be or has been presented, with the individual's consent, for nomination or election to public office.

(5) "Development commission" means any entity that has the authority to purchase, develop, improve or lease land or the authority to operate or direct the use of land. This authority must be more than ministerial.

(6)(a) "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

(b) "Gift" does not mean:

(A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official or candidate.

(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

(D) Informational or program material, publications or subscriptions related to the recipient's performance of official duties.

(E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(G) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

(i) On an officially sanctioned trade-promotion or fact-finding mission; or

(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

(I) Food or beverage consumed by a public official acting in an official capacity:

- (i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;
- (ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or
- (iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.
- (J) Waiver or discount of registration expenses or materials provided to a public official or candidate at a continuing education event that the public official or candidate may attend to satisfy a professional licensing requirement.
- (K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.
- (L) Food or beverage consumed by a public official or candidate at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.
- (M) Entertainment provided to a public official or candidate or a relative or member of the household of the public official or candidate that is incidental to the main purpose of another event.
- (N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.
- (O) Anything of economic value offered to or solicited or received by a public official or candidate, or a relative or member of the household of the public official or candidate:
- (i) As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value; and
- (ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.
- (P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.
- (7) "Honorarium" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event.
- (8) "Income" means income of any nature derived from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, honorarium, return of capital, forgiveness of indebtedness, or anything of economic value.

- (9) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in:
- (a) Any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official; or
 - (b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.
- (10) "Member of the household" means any person who resides with the public official or candidate.
- (11) "Planning commission" means a county planning commission created under ORS chapter 215 or a city planning commission created under ORS chapter 227.
- (12) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:
- (a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.
 - (b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.
 - (c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.
- (13) "Public office" has the meaning given that term in ORS 260.005.
- (14) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.
- (15) "Relative" means:
- (a) The spouse of the public official or candidate;
 - (b) Any children of the public official or of the public official's spouse;
 - (c) Any children of the candidate or of the candidate's spouse;
 - (d) Siblings, spouses of siblings or parents of the public official or of the public official's spouse;
 - (e) Siblings, spouses of siblings or parents of the candidate or of the candidate's spouse;
 - (f) Any individual for whom the public official or candidate has a legal support obligation;

(g) Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment; or

(h) Any individual from whom the candidate receives benefits arising from that individual's employment.

(16) "Statement of economic interest" means a statement as described by ORS 244.060 or 244.070.

(17) "Zoning commission" means an entity to which is delegated at least some of the discretionary authority of a planning commission or governing body relating to zoning and land use matters.

O.R.S. § 244.020

Based on the plain language of these definitions (you should also check ORS 260.005 related to political contributions), you don't seem to have described an actual or potential conflict of interest.

I also assure you that I am not a member of the Council Leadership, nor do I have a relationship with the developer. I assume that was the result of a cut and paste from some other correspondence with someone else.

Jim Brewer

From: Susan Morre
Sent: Sunday, April 03, 2011 7:06 PM
To: 'City Attorney Brewer'
Cc: 'Council'
Subject: RE: Brooklane Heights Deliberations

Hi Jim,

At one of the previous Brooklane Heights hearings, I asked the City Attorney to please inform us about the exact interpretation of the City's conflict of interest policy. City Attorney Scott Fewell noted that the conflict of interest policy applies to council members and their families.

By way of this email, I am requesting written clarification of the City's conflict of interest policy, because I am concerned that one of the Council members has a serious conflict of interest and should recuse himself from any deliberations or vote on the Brooklane Heights application. We raised this issue at the previous City Council hearing last year, but have not had it addressed in writing. It is based on several factors:

1 - Mark O'Brien is a close friend of the applicant's representative Scott Wright and spent several hours socializing with him (vineyard touring for his wife's birthday with a few couples) just before his project hearing. Knowing that he was about to hear this controversial application again, that seems like an ill-advised party invitation.

2 - One of the developers, Forrest Evashevski, who is in partnership with Steve Schaberg on the development of both Oakmont and Brooklane Heights, was a contributor to Mark's campaign for City Council.

3 - People who have been following this case for the past four years have requested that the council hold their deliberations at the evening meeting instead of the noon meeting so people with day jobs can attend. The council leadership committee, which consists of our new mayor, you, and Hal Brauner, denied that request. With your questionable ties to the applicant, this represents another obstruction of transparent democratic process.

This combination of factors gives the appearance of bias and Mark's participation in the hearing may run afoul of the city's conflict of interest policy. It may warrant his abstaining from a vote on this project.

We ask that the City Attorney reply to all of us for clarification on this matter.

Thank you very much.

Sincerely,

Susan Morre

-----Original Message-----

From: Mark O'Brien [<mailto:ward1@council.ci.corvallis.or.us>]

Sent: Tuesday, March 29, 2011 2:56 PM

To:

Subject: Re: Brooklane Heights Deliberations

Marilyn,

I wanted to share with you that Visitor Propositions for the April 4th meeting are scheduled for 7pm.

Regards,
Mark O'Brien
Councilor Ward 1

> I just talked with someone who has gone thru this. She said our only recourse is to lobby the council members. And if that fails, we should go to the visitors prop at the noon meeting and make the request.

>

> Sent: Monday, March 28, 2011 11:37:30 AM

> Subject: FW: Brooklane Heights Deliberations

> Brooklane Heights Deliberations

> Dear Mayor,

> Last week we requested that the City Council hold its deliberations at the

> April 4th evening meeting so people with day jobs could attend. Please see the response below that we received from the City Manager's office.

>

> Who has the authority to change the meeting to the evening as requested by

> local residents who are unable to attend during the daytime? This is not a

> simple business matter, and I think the opportunity for democratic involvement in hearing the deliberations warrants an evening hearing.

>

>

>

> Please advise us if you are able to move the meeting to the evening, or if

> there is another process to follow to make that request. Thank you for considering providing a more transparent process for our community.

>

> Sincerely,

>

> Susan Morre

>

> From: Mullens, Carrie [<mailto:carrie.mullens@ci.corvallis.or.us>] On Behalf

> Of City Manager

> Sent: Monday, March 28, 2011 10:28 AM

> To: Ward 1; Ward 2; Ward 3; Ward 4; Ward 5; Ward 6; Ward 7; Ward 8; Ward

9; susanmorre@ t; ralphwaldron@
> Cc: Louie, Kathy; Gibb, Ken; City Manager
> Subject: Brooklane Heights Deliberations

>
>
>

> Consistent with what was announced at the March 21 Council meeting,
Brooklane Heights deliberations will be held during the noon meeting on
April 4, 2011.

>
> Thank you.

>
>

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Version: 10.0.1209 / Virus Database: 1500/3544 - Release Date: 04/01/11

From: bethany.s.reeves@state.or.us [mailto:bethany.s.reeves@state.or.us]
Sent: Wednesday, March 16, 2011 3:07 PM
To: ward3@council.ci.corvallis.or.us
Subject: <web>Trip to Conference...

This is an inquiry e-mail via Contact Us form:

Bethany Reeves
bethany.s.reeves@state.or.us
503-378-8066 prefer phone contact: no

Hi, Mr. Hervey.

This is Bethany Reeves, from the Oregon Government Ethics Commission.

Thank you for your ethics inquiry today.

I just wanted to add one more note, that if you accept food, lodging, travel or conference registration fees under the exception in ORS 244.020(6)(b)(F), you would need to report the value of the items recieved on your annual Statement of Economic Interest. However, that is only true if you accept the food/lodging/travel/registration in your capacity as a public official who is required to file the SEI. If you accept those items in the capacity of a public official who is not required to file an SEI, you would not be required to list it on the SEI. You could choose to include this information, but you would not be required to.

If you accept those items in 2011, they would be reported on the April 15, 2012 SEI, which would be due if you hold a position as a public official that is required to file an SEI on April 15, 2012. (If you do not hold a position as a public official who is required to file an SEI on April 15, 2012, the items you accept under the "H" exception in 2011 would not be reported at all.)

Please call again if you any other questions.

Bethany Reeves
Program Analyst/Trainer
Oregon Government Ethics Commission
3218 Pringle Rd SE, Suite 220
Salem, OR 97302
Phone: 503-378-8066
Fax: 503-378-1456