



REVISED

**CORVALLIS
CITY COUNCIL AGENDA**

**February 4, 2013
6:00 pm**

**Downtown Fire Station
400 NW Harrison Boulevard**

*[Note: The order of business may be revised at the Mayor's discretion.
Due to time constraints, items on the agenda not considered
will be continued to the next regularly scheduled Council meeting.]*

COUNCIL ACTION

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. PROCLAMATION / PRESENTATION / RECOGNITION**
 - A. Proclamation of Year of Culture – 2013
 - B. Proclamation of Kiwanis Children’s Cancer Month – February 2013
- V. VISITORS' PROPOSITIONS – This is an opportunity for visitors to address the City Council on subjects not related to a public hearing before the Council. Each speaker is limited to three minutes unless otherwise granted by the Mayor. Visitors' Propositions will continue following any scheduled public hearings, if necessary.**
- VI. CONSENT AGENDA – 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.**
[direction]
 - A. Reading of Minutes
 - 1. City Council Meeting – January 22, 2013
 - 2. City Council Special Meeting (Executive Session) – January 30, 2013
 - 3. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)

- a. Citizens Advisory Commission on Civic Beautification and Urban Forestry – January 10, 2013
 - b. Downtown Commission – December 12, 2012
 - c. Economic Development Commission – December 10, 2012
 - d. Watershed Management Advisory Commission – November 28, 2012
- B. Confirmation of Appointments to Boards, Commissions, and Committees (Arts and Culture Commission – Creighton; Citizens Advisory Commission on Transit – Kollen; Housing and Community Development Commission – Fortmiller)
 - C. Announcement of Appointments to Advisory Boards, Commissions, and Committees (Bicycle and Pedestrian Advisory Commission - Bahde; Housing and Community Development Commission - Brausen, Henderer, and Lowe)
 - D. Schedule a public hearing for February 19, 2013, to consider an appeal of the Historic Resources Commission decision (HPP12-00019 – Asian & Pacific Cultural Center)
 - E. Schedule an Executive Session for February 19, 2013 at 5:30 pm under ORS 192.660(2)(h) (status of pending litigation or litigation likely to be filed)
 - F. Confirmation of an Executive Session following the regular meeting under ORS 192.660(2)(d)(h) (status of labor negotiations; status of pending litigation or litigation likely to be filed)

VII. ITEMS REMOVED FROM CONSENT AGENDA

VIII. UNFINISHED BUSINESS

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

- A. Human Services Committee – January 22, 2013
 - 1. 2013-2014 Social Services Policy Review, Funding Priorities, and Allocation Calendar [direction]
- B. Administrative Services Committee – January 23, 2013
 - 1. Majestic Theatre Management Loan extension [direction]
 - 2. Public Safety Tax [direction]
 - 3. Possible Fund Closures [direction]
 - ACTION: A resolution creating the Parks Systems Development Charge Fund, closing the Parks & Recreation Fund, transferring balances, and stating an effective date, to be read by the City Attorney [direction]*
 - ACTION: A resolution closing the Fire and Rescue Fund, transferring balances, and stating an effective date, to be read by the City Attorney [direction]*

ACTION: A resolution closing the Library Fund, transferring balances, and stating an effective date, to be read by the City Attorney [direction]

ACTION: An ordinance amending Corvallis Municipal Code Chapter 3.09, "Urban Forest Management Fee," as amended, and stating an effective date, to be read by the City Attorney [direction]

C. Urban Services Committee – None.

D. Other Related Matters

1. *A resolution accepting the Oregon Department of Transportation Local Agency Certification Program Agreement (No. 29008), and authorizing the City Manager to sign the agreement and future amendments, to be read by the City Attorney [direction]*
2. *A resolution relating to the Parks and Recreation Fund, adopting a Supplemental Budget, and authorizing the Finance Director to make budget appropriation adjustments, to be read by the City Attorney [direction]*
3. *A resolution authorizing the City Manager to enter into an agreement with the Bureau of Reclamation to support the WaterSMART program grant application, to be read by the City Attorney [direction]*

X. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

B. Council Reports

C. Staff Reports [information]

1. Council Request Follow-up Report – January 31, 2013

XI. NEW BUSINESS

A. Municipal Judge Recruitment Process Alternatives [direction]

XII. PUBLIC HEARINGS – None.

XIII. 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

FEBRUARY 4 - 16, 2013

MONDAY, FEBRUARY 4

- ▶ City Council - 6:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard

TUESDAY, FEBRUARY 5

- ▶ Airport Commission - 7:00 am - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ No Human Services Committee
- ▶ No Urban Services Committee
- ▶ OSU/City Collaboration Project Neighborhood Planning Work Group - 5:30 pm - Osborn Aquatic Center Activity Room, 1940 NW Highland Drive
- ▶ City Council work session - 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard (department budget presentations)

WEDNESDAY, FEBRUARY 6

- ▶ Community Police Review Board - 3:00 pm - Walnut Community Room, 4950 NW Fair Oaks Drive
- ▶ No Administrative Services Committee
- ▶ Corvallis-Benton County Public Library Board - 7:30 pm - Library Board Room, 645 NW Monroe Avenue

THURSDAY, FEBRUARY 7

- ▶ OSU/City Collaboration Project Parking and Traffic Work Group - 5:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

SATURDAY, FEBRUARY 9

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

MONDAY, FEBRUARY 11

- ▶ OSU/City Collaboration Project Parking and Traffic Work Group - 5:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ City Council/Planning Commission Work Session - 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard (Airport Master Plan)

TUESDAY, FEBRUARY 12

- ▶ City Council Orientation - 3:00 pm until 5:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue (media, advisory boards and commissions)
- ▶ OSU/City Collaboration Project Neighborhood Livability Work Group - 5:30 pm - Osborn Aquatic Center Activity Room, 1940 NW Highland Drive
- ▶ Historic Resources Commission - 6:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard
- ▶ City Council - 7:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue (department budget presentations)

WEDNESDAY, FEBRUARY 13

- ▶ City Legislative Committee - 7:30 am - City Hall Meeting Room A, 501 SW Madison Avenue
- ▶ Citizens Advisory Commission on Transit - 8:20 am - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ Economic Development Commission - 5:30 pm - Linus Pauling Science Center Room 402, SW 30th Street and SW Campus Way
- ▶ Downtown Commission - 5:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

THURSDAY, FEBRUARY 14

- ▶ Citizens Advisory Commission on Civic Beautification and Urban Forestry - 8:30 am - Parks and Recreation Conference Room, 1310 SW Avery Park Drive

FRIDAY, FEBRUARY 15

- ▶ Investment Council - 7:30 am - Madison Avenue Meeting Room, 500 SW Madison Avenue

SATURDAY, FEBRUARY 16

- ▶ No Government Comment Corner



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PROCLAMATION

YEAR OF CULTURE

2013

WHEREAS, Corvallis is rich in opportunities to celebrate the arts, culture, and heritage of our community; and

WHEREAS, The City Council established the Arts and Culture Commission to advise the Council on ways in which the City can strengthen its connection to arts and culture as civic priorities; and

WHEREAS, Arts and culture activities draw many people downtown to enjoy events and programs provided at Central and Riverfront Commemorative Parks, Corvallis Arts Center, Corvallis-Benton County Public Library, Majestic Theatre, Whiteside Theatre, and, in coming years, the future home of the Horner Collection of the Benton County Historical Society; and

WHEREAS, Corvallis is also home to the Fall Festival, da Vinci Days, and Red, White, and Blue Festival, which are important community celebrations of the creative spirit and make the City a more vibrant place to live and visit; and

WHEREAS, The year 2013 will commemorate significant anniversaries for several local artistic and cultural organizations. These include the 100th anniversary of the Majestic Theatre, the 50th anniversary of the Corvallis Arts Center, the 25th anniversary of da Vinci Days, and the 100th anniversary of the Benton County Fair. These anniversaries are reflective of the significant levels of community engagement and support that have helped keep the organizations vital and active through good times, as well as challenging ones.

NOW, THEREFORE, I, Julie Jones Manning, Mayor of the City of Corvallis, do hereby proclaim **2013** as the **Year of Culture** in the City of Corvallis and encourage residents to visit, experience, support, and enjoy local arts and culture activities in celebration of the Year of Culture.

Julie Jones Manning, Mayor

Date



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PROCLAMATION

KIWANIS CHILDREN'S CANCER MONTH

FEBRUARY 2013

- WHEREAS, Kiwanis International was founded on January 2, 1915; and
- WHEREAS, The men and women of the Pacific Northwest District Kiwanis have exhibited a deep sense of pride in community by serving the needs of families and children worldwide; and
- WHEREAS, Pacific Northwest Kiwanis Division 72 is represented in the communities of Corvallis, Albany, Sweet Home, and Lebanon; and
- WHEREAS, The Pacific Northwest District of Kiwanis has, effective October 1, 2010, initiated the multi-year District-wide service project Kiwanis Children's Cancer Cure Program; and
- WHEREAS, This Program will fund the Kiwanis Children's Cancer Fellowships, allowing physicians to seek cures for currently untreatable forms of cancer; and
- WHEREAS, The Kiwanis Clubs of Division 72 will collaborate with Doernbecher Children's Hospital; and
- WHEREAS, The local Kiwanis Clubs are the epitome of their defining statement, "Kiwanis is a Global Organization of Volunteers Dedicated to Changing the World One Child and One Community at a Time."
- NOW, THEREFORE, I, Julie Jones Manning, Mayor of Corvallis, Oregon, do hereby proclaim **February 2013** as **Kiwanis Children's Cancer Month** and encourage citizens to celebrate the many contributions made by the members of Kiwanis Clubs of the Pacific Northwest.

Julie Jones Manning, Mayor

Date

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES**

January 22, 2013

SUMMARY OF DISCUSSION

| Agenda Item | Information Only | Held for Further Review | Decisions/Recommendations |
|---|--|-------------------------|--|
| Proclamation/Presentation/Recognition 1. Corvallis Sustainability Coalition 2012 Annual Report 2. College Hill Neighborhood Water Main Break Pages 20-22 | Yes Yes | | |
| Visitors' Propositions 1. January 18 Water Main Break (several neighborhood residents) 2. Demolition Documentation (Beierle) 3. Mayors Against Illegal Guns (Griffiths) 4. Single-Use Plastic Carry-Out Bags (McMahon, Kettle) 5. Corvallis Chamber of Commerce (Dwyer) 6. 2008 LDC Residential Density Amendments (Hess) Pages 22-25 | Yes Yes Yes Yes Yes Yes | | |
| Consent Agenda Page 26 | | | |
| Items of USC Meeting of January 10, 2013 1. Occupy Public Right-of-Way Request (Water Street Market Apartments) Page 27 | | | <ul style="list-style-type: none"> • Approved request <u>passed U</u> |
| Other Related Matters 1. Municipal Code Chapter 1.04, "Purchasing" Page 28 | | | <ul style="list-style-type: none"> • RESOLUTION 2013-01 passed U |
| Council Reports 1. January 18 Water Main Break (Sorte, Hervey) 2. 2006 Water Main Break (Brown) 3. 2008 LDC Residential Density Amendments (Hervey) Pages 28-29 | Yes Yes Yes | | |
| Items of HSC Meeting of January 8, 2013 1. 2013-2014 Social Services Policy Review, Funding Priorities, and Allocation Calendar Page 29 | Yes | | |

| Agenda Item | Information Only | Held for Further Review | Decisions/Recommendations |
|--|--------------------------|-------------------------|---------------------------|
| Mayor's Reports 1. Dr. Martin Luther King, Jr., Birthday Celebration Page 30 | Yes | | |
| Staff Reports 1. City Manager's Report – December 2012 2. Council Request Follow-Up Report – January 17, 2013 3. Transit Operations Fee Rate Increase 4. City Council Goals Update Page 30 | Yes Yes Yes Yes | | |
| Public Hearings 1. FY 2013-2014 to FY 2017-2018 CDBG/HOME Consolidated Plan Pages 30-33 | Yes | | |

Glossary of Terms

- CDBG Community Development Block Grant
- FY Fiscal Year
- HOME HOME Investment Partnerships Program
- HSC Human Services Committee
- LDC Land Development Code
- U Unanimous
- USC Urban Services Committee

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES**

January 22, 2013

I. CALL TO ORDER

The regular meeting of the City Council of the City of Corvallis, Oregon, was called to order at 6:00 pm on January 22, 2013, in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Manning presiding.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

PRESENT: Mayor Manning, Councilors Brauner, York, Traber, Hervey, Hirsch, Sorte, Brown, Beilstein

ABSENT: Councilor Hogg (excused)

Mayor Manning directed Councilors' attention to items at their places, including the Corvallis Sustainability Coalition's 2012 Annual Report (Attachment A); an updated directory of the City's boards, commissions, and committees; information from Robert and Betty Griffiths concerning Mayors Against Illegal Guns (Attachment B); and information from PreservationWORKS and others regarding demolition documentation (Attachment C).

IV. PROCLAMATION / PRESENTATION / RECOGNITION

A. Corvallis Sustainability Coalition 2012 Annual Report

Annette Mills, Corvallis Sustainability Coalition Facilitator, conducted a PowerPoint presentation of the Coalition's 2012 Annual Report. She highlighted some of the 18 projects pursued by the Coalition's Action Teams. She thanked Councilor Traber for his contributions as Council Liaison to the Coalition's Steering Committee. She invited the Council to attend the Coalition's annual Town Hall event March 14.

Mayor Manning noted that the City was represented on the Coalition's Steering Committee and involved in various Action Teams and projects.

Councilor Hervey reported that he attended the Coalition's annual meeting and was impressed with the community's enthusiasm for the Coalition's efforts.

Councilor Traber observed the Coalition's intention to remain active, as evidenced by revising the 2008 Action Plan.

Ms. Mills responded that the Coalition's ten Action Teams revised their respective portions of the Action Plan. The Steering Committee will review the revisions, which will be presented at the Town Hall event.

Mayor Manning reported that a water main in a College Hill neighborhood broke last week, resulting in flooding of some residential basements. She asked Public Works Department Utilities Division Manager Penpraze to review the situation before the Visitors' Propositions portion of the meeting.

Mr. Penpraze explained that the Utilities Division was responsible for the operation and maintenance of the City's water, wastewater, and storm water utilities. The system included approximately 250 miles of water mains, 16,500 service pipe connections to individual properties, 7,000 valves, 2,000 fire hydrants, with all pipes ranging from two to 42 inches in diameter. The oldest known pipes were installed during the 1920s, and the newest pipes were installed in summer 2012 as part of the City's Capital Improvement Program (CIP). The overall City water, wastewater, and storm water system had a current replacement value of approximately \$1.1 billion, including the water-piping system replacement value estimated at \$300 million.

Mr. Penpraze reviewed the timeline of events regarding the January 18 water main break:

- 9:15 am – Public Works Department staff received a call regarding the break and immediately dispatched water distribution crews from the water operations center at the Public Works facility.
- City crews arrived at the College Hill neighborhood within approximately ten minutes and identified the five system valves that must be turned down. The valves were not turned off completely, as a trickle flow was necessary to maintain pressure in the system for other customers and to prevent intrusion of contaminants.
- Twelve households between the five system valves were rendered without water service (eight on NW 36th Street [36th], two on NW Tyler Avenue [Tyler], and two on NW Polk Avenue).
- 9:45 am – Water flow was decreased to near-shut-off level. Following standard procedures for water main breaks, staff located the break, excavated the break, and pumped water from the excavated hole. The water main was approximately six feet deep with a 15-foot crack.
- The subject water main, a cast iron pipe, was constructed in 1947 and installed in 1951 as part of a water main installation extending from NW 35th Street (35th) and Tyler west to 36th and north to NW Grant Avenue, where a water pumping station was located. As with most current infrastructure, the water main was installed by a private contractor.
- The City's automated water reservoir records indicated that approximately 200,000 gallons of water were lost in 30 minutes due to the water main break.
- Wastewater from neighborhood residences and storm water runoff from the streets entered the same pipe for transmission to the Wastewater Reclamation Plant.
- The area bordered by NW Fillmore Avenue and SW Western Boulevard, including the Oregon State University campus and surrounding neighborhoods, had an older sewer system.
- City wastewater collection and storm water crews assisted in repairing the broken water main.
- Mr. Penpraze, Risk Manager Krieg, Public Works Director Steckel, and City Manager Patterson were at the site and spoke with neighborhood residents.
- Staff ordered dumpsters for residents who needed to dispose of damaged personal property; the dumpsters were delivered within two hours of the water main break.
- Staff delivered bottled water to the 12 households without water service and a portable outhouse to the corner of 36th and Tyler.
- Staff delivered to the 12 affected households and Councilor Sorte letters explaining the situation and estimating when service would be restored.
- 3:00 pm – Staff completed repairs to the water main; flushed and disinfected the system, consistent with standard procedures for water main breaks; and sampled water for testing for

contaminants. Testing incubation required several hours; the test results the following morning were clear of contaminants.

- 7:00 pm – Crews filled the excavated hole, cleaned front yards of debris, swept streets, barricaded the excavated hole, removed equipment, and left the site.
- 12:00 pm (January 19) – Water service was restored.

Mr. Penpraze said staff would conduct a de-briefing session January 24 to discuss the water main break and its impacts. When weather temperatures improved, staff would repair the street cut, restore lawns, and complete clean-up of the area. He said staff would inspect the sewer system and clean it if necessary. The dumpsters would remain in place until neighbors indicated they were no longer needed.

Mr. Penpraze noted that staff responded to five water-related issues last week, including two other water main breaks and two service line connection breaks. This quantity of water line breaks in a five-day period was unusual.

In response to Councilor Sorte's inquiries, Mr. Penpraze said he had not been able to determine the average age of the other recently broken water pipes. Last week staff replaced a 20-foot section of pipe in the subject College Hill neighborhood; the pipe would be inspected to determine if structural defects existed. The City's insurance company would hire a firm to conduct the inspection and testing. Staff did not plan to consult a soil scientist.

Mr. Penpraze explained for Councilor Sorte that the 2006 water main break was fairly close to last week's break and occurred in Tyler between 35th and 36th. The water main that broke last week was not scheduled for replacement under the current five-year CIP Plan.

V. VISITORS' PROPOSITIONS

January 18 Water Main Break

Mary Mallon-Behrens lived for 22 years in a house 3.5 blocks from the water main break. Her basement, including a bathroom, bedroom, family room, and laundry/utility room, was used daily. The house was constructed in 1954 on six feet of gravel, which kept the basement dry, even during heavy rains. Her house was the northernmost house significantly affected by failure of a water main in September 2006. More than one-half of her basement was contaminated by sewer water from the 2006 incident. Cleaning and sanitizing the basement at that time cost \$1,100, but many of her neighbors encountered cleaning bills in excess of the City's \$1,500 reimbursement limit. She said it was implied that she was responsible for her basement flooding in 2006 because she had not installed a back-flow device. During 2007, her basement was again flooded when the City attempted to clear her sewer line of gravel and debris from the 2006 water main break. During 2009, she installed a back-flow device, even though two local plumbing companies advised that the device would likely fail in the event of a water main break. The device failed last Friday, and almost all of her basement was contaminated with bacteria-filled water. So far, cleaning and repair bills totaled \$5,000 but were expected to increase. Her family was attempting to salvage personal property, make sanitation and demolition decisions, and live with the smells of cleaning solvents and the continuous sounds of fans and de-humidifiers. She was concerned whether the City's liability insurance would pay all of her expenses from the water main break. She would like the City to restore her basement to its previous condition.

Kristy Rolan lived one lot from where the water main broke. She expressed frustration regarding poor communications during and after the incident. She acknowledged that City staff provided her family with bottled water and set up a portable outhouse. However, staff did not indicate to her whether the water in her house was contaminated with sewage; the notification letter from staff only indicated that a water main broke. She noted that several companies were at the site quickly to help remove water and restore properties. She did not know the potential damage to her house or the health risk to her family from the water. She checked Web sites for the Environmental Protection Agency (EPA) and the Centers for Disease Control and Prevention (CDC) regarding proper procedures for cleaning a house following a water main break and found numerous opinions. She opined that the situation and potential hazards should have been communicated better to neighborhood residents. She also urged that the City pay for a certified mold expert to test the residences.

Josh Smith noted the *Corvallis Gazette-Times* article statement that five houses were affected, but he observed 23 affected houses. He thanked Public Works Department staff for their quick response. The water main break last week was worse for him than the 2006 break. His insurance company indicated that the City was responsible for paying for his losses. He did not know what his repairs would cost. He submitted information to the City describing damage to his house. He asked how the City would keep neighborhood residents informed regarding recovery procedures, when residents would know about compensation from the City, how the City would prevent future similar occurrences and what caused the water main to break.

Christine van Belle said her basement filled with sewage as a result of the water main break. A restoration team was at her house. She was concerned how to pay for the damage. Removing damaged drywall, carpet, and furniture was estimated to cost \$5,000 to \$6,000; replacing these items would result in additional costs. She believed hers was the northernmost house affected by the break. The 2006 water main break occurred south of her property. She expressed concern that water main breaks would continue occurring northward if action was not taken to prevent them.

Henry Pittock was not affected by the 2006 water main break. Last Friday he saw water flowing in the street above the curb. He plugged his basement drain, which reduced the amount of flood water in his basement. Nevertheless, approximately one-third of his basement had one-half inch of standing water. His cleaning expenses so far totaled almost \$6,000. He asked about the length of pipe installed in the neighborhood in 1951 and whether the entire section of pipe should be checked for potential additional breaks.

Jim Ellenson opined that the 2006 water main break was not as catastrophic as last week's break because City crews were on the site working on the pipe when it broke in 2006. He expressed concern that the pipe experienced a catastrophic break in 2006 and a nearby large, spiral break in 2013 and could break a third time in the same general area, resulting in 200,000 gallons of water in 30 minutes entering residential basements. He commented that claims from the 2006 water main break were not processed as neighborhood residents expected and were limited to \$1,500 per property. He noted that some residents incurred \$10,000 in clean-up and restoration expenses but were reimbursed only \$1,500. He urged the City to respond better to claims from last week's water main break.

Other Issues

B. A. Beierle reviewed written information (Attachment C) regarding modifying the demolition permit application to require digital images of structures before demolition permits were issued. She said staff advised her that Council direction was needed before the permit procedure could be changed. She noted that each digital image would contribute to the community's collective archive. She emphasized that the Benton County Historical Museum was eager to archive and manage the digital images for public access; the process would not involve City staff time or expense.

Councilor Beilstein asked that staff follow through on Ms. Beierle's request. He was relieved that her request would not incur expenses for the City.

Betty Griffiths reviewed her memorandum to the City Council and Mr. Patterson regarding Mayors Against Illegal Guns (Attachment B) and asked Mayor Manning to join the coalition of mayors. She noted another shooting incident today at a Texas community college. She believed support from more mayors would improve the chances of ending gun violence.

Mayor Manning said she was aware of the efforts by the coalition of mayors, the United States Conference of Mayors, and the Obama Administration. She said she would review Ms. Griffiths' information.

Councilor York acknowledged that the issue involved the local, state, and national levels of government. She believed the Council must determine what it could do to make the community as safe as possible.

Susan McMahon referenced the City's legislation banning single-use plastic carry-out bags, which included a definition of allowable paper bags. She owned a Downtown area business for almost seven years and was very upset about the ordinance banning plastic bags, particularly regarding what she considered a restrictive definition of allowable paper bags. Her business provided a re-useable, recyclable paper bag. Her alternative would be a non-re-usable plastic bag. She checked with her vendors and learned there was no substitute for the high-gloss paper bag she currently provided; a kraft paper bag might meet the ordinance criteria, but only one vendor could provide the bag in the color she used for "branding" her business. Additionally, her costs for paper bags would triple. A more-economical alternative was a plastic bag. Reusable woven bags would be at least three times her current costs. She would need to order bags now to be ready for July 1, when she must comply with the ordinance. She said she ordered 3,000 to 5,000 high-gloss paper bags at a time to reduce her costs. She expected that, on July 1, she would have 5,000 to 6,000 bags that she must dispose of and replace, at a cost of \$5,000. She said the definition for acceptable paper bags created a financial burden for small businesses.

In response to Councilor Traber's inquiry, Ms. McMahon said her current high-gloss paper bag was recyclable, and many customers re-used the bags. The ordinance required that paper bags be made of at least 40 percent post-consumer content, recyclable, and compostible. Bags possessing those elements were not available at a cost that was reasonable for small businesses. The bag industry was progressing toward providing that type of bag; the cost for that bag was reasonable for large-scale businesses but was not realistic for her business. Her only cost-effective solution under the ordinance was a plastic bag that would be disposed of as garbage. She confirmed that the ordinance definition of an acceptable paper bag was stricter than was necessary and created higher costs for

small businesses. She said Downtown businesses provided customers with paper bags in an effort to support recycling and re-use. She expected that more smaller businesses would provide plastic bags because of their lower costs.

Wiatt Kettle of Voters for Effective Environmental Policy (VEEP) reminded the Council that environmental impacts were not reviewed when the ordinance to ban single-use plastic carry-out bags was developed. He recalled that the Council discussed the issue but chose not to conduct research. He liked the concept of protecting the environment, but he had not seen evidence that banning plastic bags would reduce the carbon footprint or global energy consumption. He said it was not realistic to expect that everyone would do the same thing and re-use bags in the same way. He referenced assertions that banning plastic bags would reduce litter; however, he argued that Corvallis did not have a litter problem and that plastic bags comprised one-half of one percent of roadside litter in the area.

Mr. Kettle asked the Council to re-consider the ban on single-use plastic carry-out bags. He said VEEP expected to obtain enough petition signatures to present voters an opportunity to repeal the ban. He learned that some stores were purchasing heavier plastic bags and selling them to customers for more than the five-cent charge for paper bags. He would like to see proof that banning single-use plastic carry-out bags would be better for the environment. He asked the Council to place the issue on an election ballot so voters could express their views.

Kevin Dwyer, introduced himself as the new Corvallis Chamber of Commerce Director and said he was eager to work with the Council regarding business- and economic-related topics and issues.

Jeff Hess referenced his earlier e-mail to the Council. When he purchased his house, the surrounding lots were too small for duplex development under the existing Land Development Code (LDC). Recent amendments to the LDC allowed developments dissimilar to the surrounding neighborhood, decreasing the livability of the neighborhood. One of the 2008 LDC amendments essentially doubled the maximum allowed density in each residential zone. He questioned whether the 2008 Council was unaware of the impacts of the amendment and asked the current Council to take action to revoke the amendment. He further asked why the maximum development density in the LDC was not updated to reflect the densities allowed by the amendment and why the impact of the amendment was not clearly communicated to Corvallis citizens to prompt public discussion. He requested that the Council conduct a public hearing to consider a 120-day moratorium on issuing building permits to prevent irrevocable public harm from development in affected areas. The moratorium would allow time for evaluation of community health and safety issues and give the Oregon State University (OSU)/City Collaboration Project Steering Committee time to present recommendations for action. He requested that the Council receive public input before deciding whether to act on a moratorium and provide a formal written response for supporting or opposing a public hearing regarding a development moratorium.

Councilor Hervey requested a staff response regarding Mr. Hess' testimony.

Councilor Hirsch acknowledged the Council's interest in having adequate housing in the community, particularly with increasing OSU enrollment. He appreciated Mr. Hess' input and would like to review the issue.

VI. CONSENT AGENDA

Councilors Sorte and Traber, respectively, moved and seconded to adopt the Consent Agenda as follows:

- A. Reading of Minutes
 - 1. City Council Meeting – January 7, 2013
 - 2. City Council Work Session – January 14, 2013
 - 3. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Corvallis-Benton County Public Library Board – December 5, 2012
 - b. Economic Development Commission – December 10, 2012
 - c. Historic Resources Commission – November 27 and December 11, 2012
 - d. Housing and Community Development Commission – December 19, 2012
 - e. Planning Commission – November 7, 2012
- B. Confirmation of Appointments to Boards, Commissions, and Committees (Budget Commission – O'Brien; Economic Development Commission – Weber)
- C. Announcement of Vacancies on Boards, Commissions, and Committees (Bicycle and Pedestrian Advisory Commission – Fletcher; Corvallis-Benton County Public Library Board – Castellano; Housing and Community Development Commission – Berra and Jordan; Watershed Management Advisory Commission – Rancier)
- D. Announcement of Appointments to Advisory Boards, Commissions, and Committees (Arts and Culture Commission – Creighton; Citizens Advisory Commission on Transit – Kollen; Housing and Community Development Commission – Fortmiller)
- E. Acknowledgment of receipt of updated Advisory Boards, Commissions, and Committee directory
- F. Schedule an Executive Session for February 4, 2013, following the regular meeting under ORS 192.660(2)(d) (status of labor negotiations)

The motion passed unanimously.

VII. ITEMS REMOVED FROM CONSENT AGENDA – None.

VIII. UNFINISHED BUSINESS – None.

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

C. Urban Services Committee – January 10, 2013

1. Occupy Public Right-of-Way Request (NW First Street and NW Jackson Avenue – Water Street Market Apartments)

Councilor Hervey reported that the Committee considered a request to occupy the public right-of-way (ROW) above the sidewalk across NW First Street from Riverfront Commemorative Park. The ROW encroachments would be less than four feet deep. The Council approved a similar request last year for property on an adjacent corner of the block. Based upon the earlier request, the Committee asked staff to develop a policy regarding acceptable private use of a public ROW. The Committee also asked staff to ensure that the City was reimbursed for the cost of reviewing and approving ROW encroachment applications. Staff was seeking public input to the draft policy.

Councilor Hervey explained that the current proposal included fees for reviewing the application but not continuing lease fees for use of the public ROW. The Committee discussed lease fees in terms of being good stewards of public property entrusted to the City. Staff was not aware of any other potential applications to use a public ROW that might be presented to the Council before a formal policy was adopted.

Councilor Hervey said the Committee decided that the potential lease fees for the current application did not warrant the impression that might be created by acting before adoption of the policy.

Councilors Hervey and Brauner, respectively, moved and seconded to approve the Water Street Market Apartment request to occupy the public right-of-way, contingent upon payment of a \$500 application processing fee. The motion passed unanimously.

Councilor Hervey reported that the Committee received testimony from one of the Water Street Market Apartments partners regarding the difficulty in designing a project that met City and Willamette River Greenway (WRG) requirements. The Committee directed staff to document the testimony so staff could determine whether LDC amendments were necessary to address the concerns. The Committee did not specifically direct staff to conduct the review. He asked that Community Development Department staff review the testimony record and report to the Council whether any issues warranted Council review of City and WRG development requirements.

B. Administrative Services Committee – None.

D. Other Related Matters

1. A resolution re-adopting Corvallis Municipal Code Chapter 1.04, "Purchasing"

City Attorney Fewel explained that the City's Municipal Code provisions regarding purchasing were more restrictive than relevant State laws. Therefore, the Council must adopt a resolution each year re-adopting the Municipal Code provisions. He read a resolution re-adopting Corvallis Municipal Code Chapter 1.04, "Purchasing."

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

RESOLUTION 2013-01 passed unanimously.

X. MAYOR, COUNCIL, AND STAFF REPORTS

B. Council Reports

Councilor Sorte explained that 30 College Hill neighborhood residences were impacted by the January 18 water main break; 24 of the houses were flooded with sewage from the break, and he estimated that 70 percent of the residents' back-flow devices failed. He acknowledged that the back-flow devices may have reduced some of the water flow, but a small amount of sewage could cause as much harm as several inches of sewage. He commended Public Works Department staff for its prompt response to the incident and his requests for assistance. He asked Mr. Krieg to be at the site, although there was no formal procedure for his presence at incidents. He considered Mr. Krieg's presence very helpful; however, this was reactive, rather than proactive. He noted that neighbors assisted each other removing items from basements. Based upon his experience with castings, he would prioritize replacement of the College Hill water main on the CIP schedule, considering two nearby breaks in six years. He opined that the City needed a proactive procedure and an incident manager. He would have appreciated a posting on the City's Web site describing the incident, for the benefit of affected residents and insurance companies. Contact information was needed, even though City staff kept him informed. He spoke with insurance representatives regarding having a 24-hour response so adjusters could observe incidents. The insurance company sub-contracted the adjustment process. He reiterated his view that the water main should be replaced.

Councilor Brown reviewed the circumstances of the 2006 water main break in the College Hill neighborhood. He explained that the water from the broken water main overwhelmed the sanitary sewer system, propelling sewage into building basements. The result was unpleasant and potentially very unhealthy. He urged the Council to be aware of the 2006 and 2013 water main break incidents.

Councilor Hervey asked the City Attorney's Office to respond to College Hill residents' inquiries regarding the timeline for insurance reimbursements and the procedure for filing claims.

Mr. Patterson expressed his concern for the College Hill residents affected by the January 18 water main break. He acknowledged residents' concerns regarding City responsiveness to the incident. He reported that he spoke with the City's insurance carrier; the supervisor was an adjuster on the 2006 water main break incident. He appreciated that residents were not assessing blame but were seeking assistance. He said the insurance company would have at least four adjusters in the neighborhood through the end of this week and possibly next week. By mid-afternoon today, at least ten claims were submitted to the City. He urged affected residents to submit even partial claims to the City as soon as possible. More information would be given to residents regarding how the insurance company would respond to incidents. He acknowledged the potential devastation of broken water lines. He appreciated that College Hill residents were courteous to City crews during a stressful situation. The City must follow procedures with its insurance carrier in order to ensure that injured parties were compensated fairly. He expressed to the insurance company the urgency of the situation, and he was assured that responses would be prompt. He asked residents to inform him if they did not receive assistance from the insurance company. The de-briefing session would include discussions regarding how the City could be more proactive in future situations.

Councilor Hervey referenced Mr. Hess' testimony regarding how 2008 LDC amendments impacted neighborhoods surrounding the OSU campus. He would like Community Development Department staff to provide the Council with information regarding the amendment and a response to Mr. Hess' assertions.

Councilor Sorte commented that the claim form to be submitted by College Hill residents was available on the City's Web site.

IX. STANDING COMMITTEE REPORTS AND ORDINANCES, RESOLUTIONS, AND MOTIONS
– Continued

A. Human Services Committee – January 8, 2013

1. 2013-2014 Social Services Policy Review, Funding Priorities, and Allocation Calendar

Councilor Beilstein reported that the City's social services policy was reviewed every three years, but the funding priorities were reviewed annually. For many years the priorities remained emergency and transitional services. The Committee discussed whether to incorporate guidelines for the amount of City funding for social services. Previously, a funding amount was established. During the past three years, social services funding was reduced concurrent with department operations funding because of budget constraints. He inquired whether the Council wanted to establish new guidelines for a target amount of social services funding or determine available funding each year.

This issue was presented for information only.

X. MAYOR, COUNCIL, AND STAFF REPORTS – Continued

A. Mayor's Reports

Mayor Manning thanked the Commission for Martin Luther King, Jr., and staff for the annual celebration of Dr. Martin Luther King, Jr.'s birthday. She noted that his birthday was nationally recognized as a day of community service. Several community members volunteered at the Avery Park Rose Garden.

C. Staff Reports

1. City Manager's Report – December 2012
2. Council Request Follow-up Report – January 17, 2013
3. Transit Operations Fee rate increase
4. City Council goals update

XI. NEW BUSINESS – None.

Because there were no other citizens in attendance desiring to speak to the Council under Visitors' Propositions, no additional non-public hearing business before the Council, and the public hearing was advertised to begin at 7:30 pm, Mayor Manning recessed the meeting from 7:27 pm until 7:30 pm.

XII. PUBLIC HEARINGS

- A. A public hearing to consider the FY 2013-2014 to FY 2017-2018 Community Development Block Grant/HOME Consolidated Plan

Mayor Manning reviewed the purpose of and opened the public hearing.

Staff Report

Community Development Department Housing Division Manager Weiss explained that staff and the Housing and Community Development Commission (HCDC) were developing a five-year Consolidated Plan for how the City would allocate funds from the Community Development Block Grant (CDBG) program and HOME Investment Partnerships Program (HOME). Staff and the HCDC were also developing a one-year Action Plan for the first year of the Consolidated Plan. The planning processes helped staff ensure that the funding from the United States Department of Housing and Urban Development (HUD) was aligned with community needs, particularly for low-income residents. The Consolidated Plan would identify needs for affordable housing, facilities, and services among low-income community members, along with goals and strategies for the five-year period. The Consolidated Plan would encompass Fiscal Years 2013-2014 through 2017-2018; the Action Plan would cover Fiscal Year 2013-2014. The goals, strategies, and needs of the new Consolidated Plan would not be identified for development of the new Action Plan. The areas of eligibility identified in the previous Consolidated Plan would be considered in determining funding

under the new Action Plan. Areas of eligibility had not changed among Consolidated Plans, but the means of achieving goals might change from Plan to Plan. Allocation amounts for the next fiscal year were unknown, but staff expected a decrease of approximately five percent from the current levels of \$460,500 in CDBG funding and \$298,000 in HOME funding. Allocation strategies would be adjusted when the funding amounts were announced.

Mr. Weiss said the Council would receive testimony regarding strategies and ideas for meeting needs during the next five years. The testimony would also factor into setting priorities. While the public hearing was required by HUD, staff would solicit additional input through outreach efforts. No Council action would be required from tonight's public hearing. Draft Consolidated and Action Plans would be presented to the Council in April.

Public Testimony

Sheila O'Keefe, South Corvallis Food Bank (SCFB) Associate Director, said previous CDBG grants paid a large portion of the agency's rent. SCFB appreciated the City's financial support and applied for another grant for the coming fiscal year. SCFB received more requests for assistance because of the economic conditions and the increased difficulty working-poor families and low-income households experienced in purchasing food. The agency served 275 households monthly, representing approximately 1,050 people; this was an increase from 200 households monthly a few years ago. Reductions in the Supplemental Nutrition Assistance Program (SNAP) (formerly known as the Food Stamp Program) would impact assistance requests presented to SCFB. She expected assistance requests to increase in the future, so SCFB would appreciate receiving any CDBG funding.

Barbara Bessey, Small Business Development Center (SBDC) Director at Linn-Benton Community College (LBCC), explained the Microenterprise Program. For five years the Program was subcontracted to Willamette Neighborhood Housing Services (WNHS), which returned the Program to SBDC three years ago. SBDC served 45 to 60 people annually in Linn and Benton Counties. CDBG funds from the City were dedicated to low-income Corvallis residents. SBDC received some funds from the City of Albany and Oregon Economic Development to provide services to residents of all areas of both counties. While it previously assisted people to learn what was required to operate a business, the Program did not help people develop a viable business plan and launch a business. The Program evolved during the past three years into three phases: *Microbusiness Explorer* – an 11-week process to develop and analyze a feasibility study and decide whether to proceed; *Commit Class* – a six-week process of documenting a business plan, start-up strategy, and funding strategy; and *Microbusiness Launch Class* – a monthly peer-supported, instructor-led class to address issues that arose among the participating businesses. The State funded one-on-one, confidential, free business advising. Approximately 45 microbusinesses began from the Program, which helped participants find a way to make a living to support themselves. SBDC recruited participants from WNHS' housing developments and Community Services Consortium's jobs program. SBDC established a partnership with the Oregon Employment Division's self-employment program.

In response to Councilor York's inquiry, Ms. Bessey said the Microenterprise Program was accessible at the LBCC Benton Center, Corvallis High School, the LBCC Lebanon Center,

the LBCC Main Campus, and in Downtown Albany. Advising could occur in any venue. Orientations were conducted at WNHS housing developments, and car pooling was coordinated if the Program was conducted in a different community.

James Moorefield, WNHS Executive Director, cautioned that actions occurring in the state could impact what WNHS could do in Corvallis in the future. He explained that WNHS housing projects relied upon numerous funding sources, many of which were administered by the Oregon Housing and Community Services Department (HCSD). Local financial support helped WNHS obtain State funding. Last month the HCSD announced that it would be re-organized; this month it announced that it would be dismantled and re-assembled in a different format. HCSD administered many funding sources and numerous programs. The State also re-designed how it awarded housing financing funds, including the application process, priorities, and criteria for determining funding. A key factor in the re-design involved data analysis regarding what regions of the state received their "fair share" of available funding in an attempt to create a funding allocation balance over the next several years. The State actions would impact how the City considered investing Federal funding, developing the next Consolidated Plan, and pursuing the Council goal involving affordable housing.

Mayor Manning said she heard Governor Kitzhaber and HCSD Director Van Viet discuss the changes Mr. Moorefield described. HCSD would be funded by the Governor's budget for one more year and then cease; HCSD programs would be absorbed by other agencies' budgets. Governor Kitzhaber was seeking ways to combine similar programs under aspects of the State budget. It was uncertain which State agencies would fund which programs.

Councilor Traber referenced the forthcoming uncertainty regarding the HCSD's programs and the possible re-allocation of funds geographically throughout the state. He questioned whether the Corvallis area had received more than its "fair share" and might lose funds.

Mr. Moorefield said he did not know the State funding allocation data. The definition of "fair share" could affect the allocations. Governor Kitzhaber's staff said it would like a more-productive connection between affordable housing and the Governor's other goals involving regional planning, strategies, Regional Solutions Teams, and coordinated care organizations regarding health care.

Mayor Manning said she recently attended a State Housing Division meeting, with a discussion of housing affordability in Benton and Linn Counties, which have some of the more-challenged areas in the state in terms of overall affordability, based upon per-capita income and the housing type inventory available in the region. There might be opportunities to reference connections between agencies.

In response to Councilor Hervey, Mr. Moorefield expressed hope that the City could provide input to the State's re-organization of the HCSD. He said the HCSD indicated that it would undertake a thorough public process and engage all stakeholders.

Mr. Moorefield added that, in assessing allocations by regions, HCSD was reviewing the percentage of people who were rent burdened in an area in relation to housing resources delivered to the area. Commuting into and out of areas and transportation costs for low-

income people were issues. He considered Corvallis to have a high percentage of rent-burdened residents. The number of people who commuted to Corvallis for work was high, which could affect the determination of whether the City received its "fair share" of State funding.

Councilor Sorte offered to speak with Mr. Moorefield regarding regional solution impact analyses in which he was involved.

Mayor Manning closed the public hearing.

Questions of Staff

In response to Councilor Beilstein's inquiry, Mr. Weiss confirmed that a permanent cold-weather shelter for homeless people could qualify for CDBG funds, if it met the criteria. The service recipients would qualify for assistance from an income perspective. The City funded winter shelter services, and that funding could be incorporated into a new Consolidated Plan.

Councilor Beilstein observed that the City's funding of the cold-weather shelter was not invested in infrastructure. The community desired a more-stable cold-weather facility, but there were no plans for a new facility.

Mr. Weiss responded that the Consolidated and Action Plans would create the means of funding activities that would benefit the community. Staff would continue working with the Corvallis Homeless Shelter Coalition and the Jackson Street Youth Shelter on future projects. Staff worked with Community Outreach, Inc., for services. He did not expect the City to cease undertaking community projects on a continuing basis.

Mr. Weiss confirmed for Councilor Traber that HOME funds were invested in the Partners Place housing development and the Center Against Rape and Domestic Violence advocacy center.

Councilor Hervey noted that much of the City's low-income housing was intended to achieve maximum housing for available funding. That housing needed significant upgrades.

Mr. Weiss responded that there was no requirement to achieve maximum return on investment when developing low-income housing. There were limits on the amount of funding that could be invested in new construction or rehabilitation. Other than the Lancaster Bridge development, there was little WNHS housing that needed extensive upgrades. He expressed hope that the City would have funds to rehabilitate older housing as necessary.

Mayor Manning announced that the second public hearing would occur during April.

XIII. ADJOURNMENT

The meeting was adjourned at 8:06 pm.

APPROVED:

MAYOR

ATTEST:

CITY RECORDER

January 2013

CREATING A SUSTAINABLE COMMUNITY

As the flagship organization for sustainability efforts in Corvallis for the past six years, the Corvallis Sustainability Coalition has grown to include nearly 250 organizational partners and hundreds of individual volunteers working toward the vision of a sustainable future for our children and grandchildren.

The *Community Sustainability Action Plan* that was developed with input from hundreds of community members has served as a framework for action since 2008. The plan is a “living document” that is designed to change over time. This past year, the Sustainability Coalition’s action teams led a process to review and revise the plan, while concurrently taking action toward the creation of a sustainable community. Some highlights of their actions in 2012 include the following:

Community Inclusion Action Team brought together leaders of 12 human services-related organizations to discuss and provide input to their section of the Action Plan.

Economic Vitality Action Team continued to co-sponsor the Buy Local First Campaign, launched the Business of the Week program, and helped to organize and promote the 2nd annual Buy Local First Day and Buy Local First Holiday Contest.

Energy Action Team explored community and residential co-op solar models and provided support to Energize Corvallis programs.

Food Action Team created and distributed hundreds of copies of the 3rd edition of the *Corvallis Garden Resource Guide*, sponsored two Edible Front Yard Garden Tours attended by 120 people, sponsored the 3rd annual Local Eats Week, and provided wood-engraved Local 6 Connection signs to participating restaurants.

Housing Action Team sponsored the 2nd annual Abundant Choices House Tour.

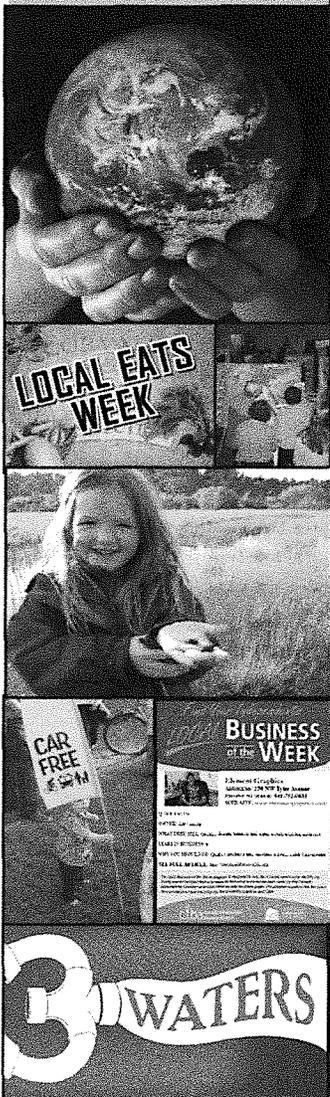
Land Use Action Team continued to gather and enter data on a city-wide inventory focused on walkable, mixed use neighborhoods and neighborhood centers. The data began to be used with GIS to show such characteristics as distance to bus stops and food stores.

Natural Areas Action Team sponsored the 3rd annual Natural Areas Celebration Week.

Transportation Action Team organized the 3rd annual World Car Free Day in Corvallis, held in conjunction with Fall Festival and featuring a free bike valet and promenade of booths.

Waste Prevention Action Team created and distributed thousands of copies of the *Corvallis Area ReUse Directory* and organized 61 volunteer Recycling Block Captains who distributed information throughout the year to nearly 3,000 homes.

Water Action Team installed the city’s first permitted greywater system, highest-efficiency toilet and on-demand water heater at the First Alternative Co-op South Store as part of the Three Waters project; created a model water efficiency policy for businesses and institutions; and provided presentations on water conservation to the public, high school and university classes, county staff, private sector employees, and local service clubs.



Abundant Solar
 Akro Construction Corporation
 Allied Waste
 Alternative Power and Energy Conservation Components (APECC)
 American Toy LLC
 Ameriworld Energy Management
 Animal Crackers Pet Supply
 AnOvation Group LLC
 Anne's Agency
 Apicuricus
 ASOSU Environmental Affairs Task Force
 Associated Students of Oregon State University
 ATCO America
 Audubon Society of Corvallis
 Avery Addition Neighborhood Association
 Baby Go Lucky Diaper Service
 Bald Hill Farm
 BE Solar
 Beaver Biodiesel LLC
 Beit Am Jewish Community
 Bella Vino Gift Baskets
 Benton County
 Benton County Community Rights Coalition
 Benton County Environmental Issues Advisory Committee
 Benton County Fair
 Benton County Master Gardeners
 Benton Furniture Share
 Benton Habitat for Humanity
 Benton Soil & Water Conservation District
 Beth Young Garden Design
 Blackledge Furniture
 Block 15
 Bombs Away Café
 Bonnie Arent Lorenz, Acupuncture
 Boys & Girls Club of Corvallis
 Breaking Bread
 Broadleaf Architecture
 Business Enterprise Center
 Carol Trueba, Broker - Keller Williams Realty
 Cascade Pacific RC & D
 Cascades West Rideshare
 CASSE
 CH2MHill
 Cattail Creek Lamb
 Charles R. Gerke AIA Architect
 Ching Hai Intl. Assn. in Oregon
 Chintimini Wildlife Center
 Cirello's Pizza & Pasta
 Citizens Bank
 City of Corvallis
 City Delivery Service
 Clean Air Lawn Care
 Cleland Marketing
 Coast Range Association
 Coffee Culture
 CoHo Ecovillage
 Community Alliance for Diversity
 Community Services Consortium
 Confluence Design & Construction
 CORE Communications
 The Corvallis Clinic P.C.
 Corvallis-Albany Farmers' Markets
 Corvallis Bicycle Collective
 Corvallis Chamber of Commerce
 Corvallis City Club
 Corvallis Clinic
 Corvallis Custom Kitchen & Baths
 Corvallis Daytime Drop-in Center
 Corvallis Environmental Center
 Corvallis Fall Festival
 Corvallis Furniture LLC
 Corvallis Homeless Shelter Coalition
 Corvallis Independent Business Alliance
 Corvallis Matters
 Corvallis Oddfellows
 Corvallis Oregon Tilt
 Corvallis Pedicab
 Corvallis Public Schools Foundation
 Corvallis Rowing Club
 Corvallis School District 509J
 Corvallis United Church of Christ (Just Peace Comm.)
 Corvallis Waldorf School
 Cottage Gardening Service
 Country Vitamins
 Coyle LLC
 Crawford Design, Inc.
 Crescent Valley High School
 CSC Youth House Gardens
 Cycle Solutions
 daVinci Days
 Debonair Enterprises
 Delta Engineering Services
 Devco Engineering
 DH Renewables
 Downtown American Dream Pizza & Crowbar
 Earth Charter Campaign
 Earth & Sea Salts
 E2Now Tech
 Ecoregon
 Ecotecture® Publications
 Ecumenical Ministries of Oregon
 Elemental Graphics, Inc.
 Emerald Forest Architecture
 Energy Trust of Oregon
 Energy Wise Lighting
 Farmland LP
 FireWorks Restaurant

SUPPORTING OUR PARTNERS

The Corvallis Sustainability Coalition includes nearly 250 partner organizations: non-profits, businesses, faith communities, educational institutions, and local governments. One of our primary purposes is to provide opportunities for increased communication and collaboration among our partners. In 2012, we offered support to our organizational partners through the following activities:

Sustainability Fair – Forty-two partner organizations were the featured exhibitors at a fair held immediately before the annual Town Hall meeting. The 600 community members in attendance had an opportunity to learn more about what our partners are doing to create a sustainable community.

Sustainability Town Hall 2012 - Held at the CH2MHill Alumni Center on March 1, 2012, the Town Hall drew a crowd of nearly 400 community members. Highlights included a slide program featuring partner accomplishments of the previous year, voting for the next step in the Buy Local First Campaign, and “snapshots” of sustainable actions taken by individuals to reduce fossil fuel consumption. The Town Hall was a model sustainable event, providing partners with ideas and best practices related to Energy, Food, Transportation, Waste Prevention, and Water.

Quarterly Gatherings – We hosted three meetings of Coalition partners at the public library (April, July, October), with attendance ranging from 60 to 100. Each of the gatherings featured presentations by selected partners that shared what their businesses and organizations are doing to become more sustainable.

On-line Communications – In 2012, the Coalition's partners were connected through a broad array of on-line communications, including the Sustainable Corvallis website, Sustainable Corvallis Google groups, Facebook, Twitter, monthly sustainability events calendars, and bi-monthly “E-Updates.” Each of these tools enhances communication among our partners.

Partner events - The Sustainability Coalition participated in various partner-sponsored events, tabling at programs such as the OSU Sustainable Energy Initiative Fair, Chef's Show-off, OSU Earth Day, Earth Ball, Spring Garden Festival, Buy Local First Brunch, OSU Sustainability Festival, and National Food Day. In addition, the Coalition participated in “Green Town” at the da Vinci Days festival, and Coalition volunteers helped staff composting/recycling stations located throughout the festival grounds.

First Alternative Food Co-op
 First Presbyterian Church
 First United Methodist Church
 Fitzpatrick Ecological Consulting
 FixMyGadget
 Foodwise
 Freshwater Illustrated
 Friends of Corvallis-Benton Co. Public Library
 Friends of Witham Oaks
 Full Circle Creamery
 Garland Nursery
 Gathering Together Farm
 Geologie
 Get Organized!
 Get Smart! Resource Efficiency Program
 Gluten Free RN
 The Golden Crane
 Good Samaritan Episcopal Church
 Good Samaritan Regional Medical Center
 Grass Roots Books & Music
 Green Cascades, LLC
 Green Culture Contracting
 Green Currents
 Green Planet Dreams
 Green Thumb Printing and Design
 Greenbelt Land Trust
 Greenwillow Grains
 Handcrafted Corvallis
 Health Equity Alliance
 Healthy Aging Coalition
 Healthy Youth Program – Linus Pauling Inst
 Heartland Humane Society Thrift Store
 Holly Oak Music Studio
 Home Grown Gardens

Hospitality Vision
 HOUR Exchange
 Hull Home Efficiency
 Integrated Resource Management
 Intertech Inc.
 Institute for Applied Ecology
 Intl. Brotherhood of Elec. Workers Local 280
 Jobs Addition Neighborhood Association
 JTI Supply, Inc.
 Kaleidoscope Studios
 Kappa Landscape Design
 Kate Hickok Media Productions
 Keller Williams Realty Mt-Willamette
 Knollbrook Peace House
 League of Women Voters of Corvallis
 Legated Homes Corvallis Communities
 Linn-Benton Pacific Green Party Chapter
 Live Well Studio
 Marys Peak Natural Resources Interp. Center
 Marys River Grange
 Marys River Watershed Council
 McLellan Temporaries, Inc.
 Metzger Green Construction
 MicroEPIC Productions
 Mid-Valley Bicycle Club
 Native Plant Society of Oregon
 Natural Choice Directory
 Neighborhood Naturalist
 North College Hill Neighborhood Association
 North Jackson Company
 Northwest Earth Institute
 Nova Garden Design, LLC
 Oregon Green Schools
 Oregon State University
 Oregon Toxics Alliance

Oregon Wildlife Institute
 OSU Campus Recycling
 OSU College of Forestry
 OSU Community Service Center
 OSU Env. Humanities Initiative
 OSU Extended Campus
 OSU Extension - Benton County
 OSU Hydrogen Club
 OSU Sustainable Energy Initiative
 OSU Student Sustainability Initiative
 Pacific Timbercraft
 PreservationWORKS
 Prudential Real Estate Professionals
 Resilience Network
 RESULTS Corvallis
 Robert Mauer, Attorney at Law
 Rod Terry, Designer
 Ron Hall Concrete, LLC
 Roxy Dawgs
 Seasons of Life Ceremonies
 Sierra Club (Marys Peak Group)
 Signe Danler, Realtor/Ecobroker
 Silverman Studios
 Sky High Brewing
 Slow Food Corvallis
 Soilsmith Services, Inc.
 Solar CREEK
 Solar Ki
 SoupCycle
 Spindrift Cellars Winery
 Spring Creek Project
 St. Anne Orthodox Church
 St. Mary's Catholic Church (Care for Creation Committee)
 STEPS (OSU)

Stoker's VitaWorld
 Sunbow Farm
 Sundborn Children's House
 Sunrise Corner Community Garden
 SunSavor Food
 Sunwize
 Susan Binder, Designer
 Sustainable Building Network
 Sustainable Forests Partnership
 Sweet Yoga, LLC
 Ten Rivers Food Web
 The Valley Explorer
 Timberhill Athletic Club
 Tix R Us, LLC
 T. Gerding Construction Company
 Tye Wine Cellars Ltd.
 Unitarian Universalist Fellowship
 Univ. Housing & Dining Services, OSU
 Veterans for Peace, Chapter 132
 Village Roots Eco-playchool
 Virginia Shapiro, DC - Integrative Chiropractic Care
 Visit Corvallis
 Vitality Farms LLC
 Weinstein Mustard Company
 Western Pulp Products
 Whiteside Theatre Foundation
 Wild Garden Seed
 Willamette Disc Golf Club
 Willamette Living Magazine
 Willamette Neighborhood Housing Svcs
 Willamette Watershed Productions
 Wineopolis
 3 Degrees/Blue Sky
 350 Corvallis

BUILDING RELATIONSHIPS

Communicating with local decision-makers and developing collaborative relationships with partner organizations are key to accelerating the creation of a sustainable city and county. Throughout 2012, representatives of the Sustainability Coalition reached out in a variety of ways to enhance this important dialogue.

The Coalition continued to foster communication with the City of Corvallis by

- Presenting the Coalition’s Annual Report to City Council and responding to questions
- Inviting City Council members to each of the 10 Community Conversations that were held to gather input during the Action Plan revision process
- Working closely with the City Council liaison to the Coalition, who participated in Steering Committee meetings on a regular basis
- Revising the Partnership Agreement between the Sustainability Coalition and the City to ensure effective communication and collaboration between the two organizations

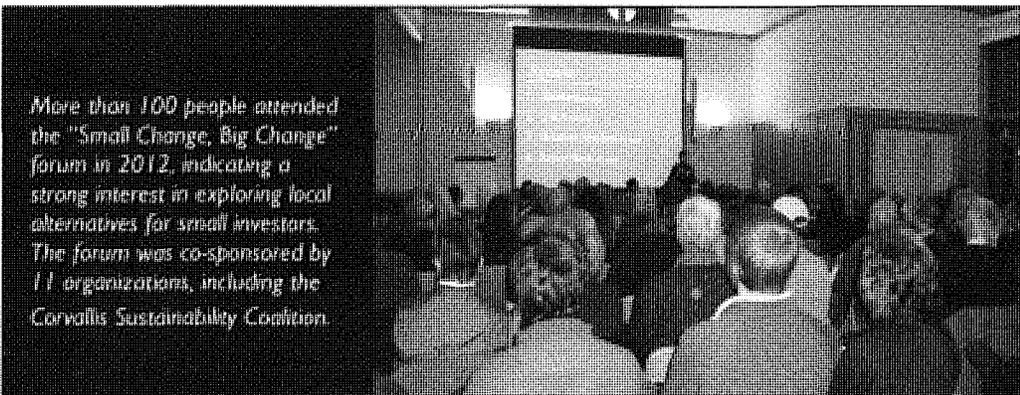
A member of the Benton County Environmental Issues Advisory Committee continued to serve on the Steering Committee, providing greater communication with Benton County.

Steering Committee members served as Coalition representatives on numerous advisory bodies, including

- Corvallis School District Sustainability Steering Committee
- City of Corvallis Community Gardens Master Plan Advisory Committee
- City of Corvallis Healthy Streets Technical Advisory Committee
- Selection panel for City’s new Economic Development Manager
- Benton County Community Health Improvement Planning (CHIP) Committee
- Economic Vitality Partnership
- Celebrate Corvallis “Good Steward of the Planet” Selection Committee

In addition, the Sustainability Coalition collaborated with scores of organizations and businesses to provide co-sponsorship of various events and activities, including

- 8th Annual Eco-film Festival
- Jackson-Frazier Creeks “Stream of Consciousness Tour”
- Natural Areas Celebration Week
- World Car Free Day
- Buy Local First Campaign
- Independents Week
- “Fixing the Future” film showing/discussion
- “Small Change, Big Change: Investing in Our Community”



More than 100 people attended the “Small Change, Big Change” forum in 2012, indicating a strong interest in exploring local alternatives for small investors. The forum was co-sponsored by 11 organizations, including the Corvallis Sustainability Coalition.

Our Vision

Corvallis is a community in which the needs of the present are met without compromising the ability of future generations to meet their own needs. It is a flourishing and thriving city with a vibrant economy that respects, restores, and cares for the community of life.

Our Mission

To promote an ecologically, socially, and economically healthy city and county.

We will achieve our mission by using the Sustainability Guiding Objectives and a democratic, highly participatory decision making process.

Our Guiding Objectives

Our community will:

1. Reduce and ultimately eliminate our community’s contribution to fossil fuel dependence and to wasteful use of scarce metals and minerals. Use renewable resources whenever possible.
2. Reduce and ultimately eliminate our community’s contribution to dependence upon persistent chemicals and wasteful use of synthetic substances. Use biologically safe products whenever possible.
3. Reduce and ultimately eliminate our community’s contribution to encroachment upon nature (e.g., land, water, wildlife, forests, soil, ecosystems). Protect natural ecosystems.
4. Support people’s capacity to meet their basic needs fairly and efficiently.

Our Steering Committee

Annette Mills, Facilitator
 Bob Devine, Secretary
 David Persohn, Treasurer
 Elliott Finn
 Betty Griffiths
 Loma Hammond
 Debra Higbee-Sudyka
 Amy Hoffman
 John Knight
 Linda Lovett
 Robert Mauger
 Jennifer Nitson
 John Swanson
 Brandon Trelstad

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 Corvallis, Oregon
 97339-2310
 Tax ID #27-1003508

sustainablecorvallis.org

STRENGTHENING THE COALITION

The Sustainability Coalition is an all-volunteer organization led by a Steering Committee, an Executive Committee, and several operational committees that work to ensure its long-term viability. Here are a few of the year's highlights from those committees.

The Sustainability Coalition's Steering Committee is responsible for overall policy, strategy development, and finances of the Coalition. In that capacity, the Steering Committee

- Created and adopted a Strategic Plan for the Coalition for 2012-2016
- Developed an Advocacy Policy that outlines a process for adoption of formal positions on public policy
- Revised the Coalition's Decision-making Policy
- Adopted revisions to the Coalition's Financial Policies and Procedures
- Identified staffing needs and developed job descriptions for a development coordinator, action team coordinator, and administrative assistant
- Revised the Coalition's bylaws

In addition to serving on the operational committees described below, Steering Committee members serve as liaisons to the action teams. Their primary responsibility is to serve as a communications link between the action team and the Steering Committee.

The Executive Committee is composed of four Steering Committee members, including the Facilitator. In 2012, they continued to carry out the Coalition's day-to-day operations. In addition, they began to meet monthly with the City's Sustainability Program Specialist and quarterly with key City officials.

Members of the Communications & Marketing Committee increased the visibility of the Coalition in the community through administration of the Coalition's website, Facebook, bi-monthly *E-Updates*, Sustainability Events Calendars, and event posters. Team members also contributed articles and photos to the Business of the Week program and helped with planning for Town Hall 2013. In addition, they wrote and distributed numerous press releases to publicize the projects, activities, and events of the Coalition and its action teams.

The Finance Committee reviewed, revised, and made recommendations regarding Financial Policies and Procedures. They also developed new formats for the annual budget and monthly financial reports, and drafted the 2013 budget. The Coalition treasurer serves as chair of the Finance Committee, and a committee member serves as our bookkeeper.

The Fundraising Committee developed a Capacity Building Campaign budget and plan, organized a donor database, formed a grantwriting subcommittee, and raised funds from partner organizations and individual community members to cover costs of the annual Sustainability Town Hall meeting, basic operations, and action team projects.

"We live at a pivotal moment in the story of humankind. . . . We are starting to see the limits of what the earth can provide. The signs are all around us. We can choose to ignore these signs and wait until we are forced to react. Or we can seize this opportunity to work together to create a sustainable world." - Community Sustainability Action Plan

Thank you to the dozens of organizations and hundreds of individuals who are working together in Corvallis and Benton County to create a sustainable community.

Rec'd 1/22/13
/K

To: Mayor Julie Manning
Copy: City Council
Jim Patterson, City Manager
From: Robert and Betty Griffiths
Re: Mayors Against Illegal Guns
Date: January 22, 2013

As a result of gun violence 30,000 Americans are killed every year. The mass murder of two people at Clackamas Town Center and of 20 children and 6 adults in a school in Newtown, Conn are two horrible examples of a long string of gun deaths in our country. The causes of this violence are complex as are the solutions. However, it is incumbent on all of us to take any and all steps that we are able to take to reduce this carnage.

One of the things that we can do is work together to stop criminals and mentally unstable individuals from getting guns while also protecting the rights of other citizens to freely own them. With this in mind, 15 mayors held a summit in New York City in 2006 to discuss strategies for stopping the flow of illegal guns into American cities. Out of that meeting, Mayors Against Illegal Guns was formed which has grown to include more than 700 mayors from 40 states. This coalition is committed to working together to share best practices, develop innovative polices and support legislation at the national, state and local levels that will help law enforcement target illegal guns.

So far only the Mayor of Eugene has signed on from Oregon. We need more mayors to sign on to this important coalition. If you have questions or would like more information, you can go to the coalition's web site: mayorsagainstillegalguns.org.

We request that the City of Corvallis participate in this effort by joining the Mayors Against Illegal Guns. The coalition's Statement of Principles is attached for you to review and hopefully sign. Thank you for your consideration of this serious request.

STATEMENT OF PRINCIPLES

Whereas: 30,000 Americans across the country are killed every year as a result of gun violence, destroying families and communities in big cities and small towns; and

Whereas: As Mayors, we are duty-bound to do everything in our power to protect our residents, especially our children, from harm and there is no greater threat to public safety than the threat of illegal guns;

Now, therefore, we resolve to work together to find innovative new ways to advance the following principles:

- Punish – to the maximum extent of the law – criminals who possess, use, and traffic in illegal guns.
- Target and hold accountable irresponsible gun dealers who break the law by knowingly selling guns to straw purchasers.
- Oppose all federal efforts to restrict cities' right to access, use, and share trace data that is so essential to effective enforcement, or to interfere with the ability of the Bureau of Alcohol, Tobacco, and Firearms to combat illegal gun trafficking.
- Keep lethal, military-style weapons and high capacity ammunition magazines off our streets.
- Work to develop and use technologies that aid in the detection and tracing of illegal guns.
- Support all local, state, and federal legislation that targets illegal guns; coordinate legislative, enforcement, and litigation strategies; and share information and best practices.
- Invite other cities to join us in this new national effort.

(Signature)

(Date)

(Mayor's Name – please print)

(Mayor's Office Address)

(City, State, Zip)

(Mayor's Telephone)

(Mayor's Email Address)

(Staff Contact Name)

(Staff Member's Telephone)

(Staff Position)

(Staff Email)

(Mayoral Term -- MM/YYYY to MM/YYYY)

(Elected as – e.g. Rep., Dem., non-partisan, independent)

To join Mayors Against Illegal Guns, please fill in the information above and return this form to the coalition via fax at 212-312-0760. Alternatively, you can email a PDF of the signed statement to statement@mayorsagainstillegalguns.org.

Demolition Documentation

On behalf of PreservationWORKS, the Citizens for Livable Corvallis, and the Benton County Historical Society & Museum, we respectfully request Council consider **modifying the Demolition Permit application to require digital images of structures before a demolition permit is issued.**

Our built environment is being lost at an alarming rate – 95 demolitions permits issued in the past five (5) years alone. Image documentation as an addition to the demolition permit process will record the current condition of Corvallis before it changes irrevocably.

Images of Corvallis structures are an important research tool that document architecture, building materials and land use. Sometimes, they also inadvertently provide information on cultural and environmental conditions as well. As it is unknowable who may be applying for demo permits, it is in the community's long-term interest to record how resources existed in time, before they are forever lost.

Number of Images

- Minimum of one image/elevation
- One overall image that depicts the subject structure in relationship to other structures on the site, if any
- One image that depicts the subject structure in relation to the street context

Image Quality

Minimum 1024 image size or better; the higher the resolution the better. We suggest images from grade to the topmost element. Image taken at night without flash, or through tree/plant cover would not be helpful. There is no suggestion that images meet architectural building survey or engineering survey standards.

Trespass

Images recorded by a permit applicant would avoid concerns about potential trespass on private property by volunteer amateur photographers and potential safety concerns. Applicant submitted images address these matters.

Retention/Storage

The Benton County Historical Society & Museum (BCHSM) is a logical repository for images of structures prior to demolition, where they will be retained in perpetuity. If images are attached to an email, a future online application, or on disc, the images could be forwarded to BCHSM as soon as the application was determined to be complete. Images would not need to be retained or stored by the City beyond approval of the demolition permit.

Legal Obligation

If the images are required by permit application, failure to provide images would be the same as if any other permit requirement (e.g., fee) were not provided.

Respectfully submitted,

BA Beierle

Mary Gallagher

Charlyn Ellis

Carolyn Verlinden

| Year | Move | Residential | Multifamily | Commercial | Demolition | Total |
|--------|------|-------------|-------------|------------|------------|-------|
| 2008 | | 12 | | | | 12 |
| 2009 | 3 | 19 | 1 | 3 | | 23 |
| 2010 | | 9 | 1 | 4 | | 14 |
| 2011 | | 11 | 2 | 2 | | 15 |
| 2012 | 1 | 29 | 1 | 1 | | 31 |
| Totals | 4 | 80 | 5 | 10 | | 95 |

Statistics provided City Developmental Services

**CITY OF CORVALLIS
SPECIAL COUNCIL MEETING (EXECUTIVE SESSION) MINUTES**

January 30, 2013

The special meeting of the City Council of the City of Corvallis, Oregon, was called to order at 9:00 am on January 30, 2013 in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Manning presiding.

I. ROLL CALL

PRESENT: Mayor Manning, Councilors Brauner, York, Traber, Hervey, Hirsch, Brown, Beilstein

ABSENT: Councilors Hogg, Sorte (excused)

II. UNFINISHED BUSINESS

A. An Executive Session under ORS 192.660(2)(b) (status of labor negotiations)

Mayor Manning read a statement, based upon Oregon laws regarding executive sessions. 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. Mayor Manning noted that no decisions would be made during the executive session. Council and staff members were reminded 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. Council or staff members not able to maintain the Council's confidences should leave the meeting room.

The Council entered executive session at 9:01 am.

Deputy City Attorney Brewer, Police Chief Sassaman, Human Resources Manager Altmann Hughes, and Budget Manager Chenard updated Council on labor negotiations with Corvallis Regional Communications Center Association.

III. ADJOURNMENT

The Executive Session adjourned at 9:44 am.

APPROVED:

ATTEST:

MAYOR

CITY RECORDER

DRAFT

**CITY OF CORVALLIS
MINUTES OF THE CIVIC BEAUTIFICATION AND URBAN FORESTRY COMMISSION
JANUARY 10, 2013**

Attendance

Angelica Rehkugler, Chair
Tim Brewer, Vice Chair
Kent Daniels
Ross Parkerson
Ruby Moon
Larry Passmore
Tony Livermore
Norm Brown, OSU Liaison
Joel Hirsch, City Council Liaison

Staff

Becky Merja, Urban Forester
Jude Geist, Parks Supervisor
John Hinkle
Mark Lindgren, Recorder

Visitors

Stewart Wershow
Owen Dell
Matt Sanchez

Absent/Excused

Becki Goslow
Ian Davidson

SUMMARY OF DISCUSSION

| Agenda Item | Information Only | Held for Further Review | Recommendations |
|---|------------------|-------------------------|---|
| II. Introductions | X | | |
| III. Review of Minutes- December 13, 2012 | X | | |
| IV. Visitor Propositions | X | | |
| V. Staff Reports- if questions | X | | |
| VI. 2013-2014 City Council Goal Setting | X | | |
| VII. City Council/ OSU Liaison Reports | X | | |
| VIII. Report on Subcommittees | X | | |
| IX. Adjournment | X | | The next CBUF meeting will be at 8:30 a.m. February 14, 2013, at the Parks and Rec Conference Room. |

CONTENT OF DISCUSSION

- I. CALL TO ORDER:** Chair Angelica Rehkugler called the meeting to order at 8:30 a.m.

II. INTRODUCTIONS.**III. REVIEW OF MINUTES.**

Ruby Moon noted that her comment under Introductions in the December 13, 2012 minutes should refer to Jackson *Street*, not Jackson *Creek*. Rehkugler noted that under Item #10, the minutes should reflect that the commission hadn't had time to view the videos. Ross Parkerson moved and Kent Daniels seconded to approve the December 13, 2012 minutes as corrected; motion passed.

IV. VISITOR PROPOSITIONS.

Matt Sanchez, an OSU student, stated that he was volunteering to help with CBUF's stewardship program under development. He is researching other similar programs around the US. He highlighted the issue of volunteer training resources available, both free and for a cost, and distributed a sample. He said a CBUF training manual could be made available for download online. Forester Becky Merja explained that the Urban Forestry Subcommittee was working on a neighborhood tree stewardship template.

Stewart Wershow, Garfield Park Neighborhood Association President, introduced himself. Owen Dell introduced himself as a landscape architect and an author on sustainable landscaping and business management for landscapers. He moved here recently and plans to do design work and community volunteering.

Rehkugler related that Becki Goslow was nominated as a First Citizen, adding that Goslow will miss the next several meetings as she attends Master Gardening training sessions.

V. STAFF REPORTS- IF QUESTIONS.

Jude Geist highlighted the Heritage Tree stakeholder group meeting here next Monday at 3-5 p.m. Rehkugler and Parkerson will attend on behalf of CBUF; the meeting is open to the public. Merja added that other stakeholder members included Joel Hirsch; B.A. Beierle, PreservationWorks; Joe Majeski, OSU Landscaping; Marc Vomocil (PNARB and Starker Forests); Pat Breen; Jeff Powers, Benton County Natural Areas and Parks; Vicki Wills; Bob Richardson, Community Development Planning Division; Karen Emery; Jude Geist; Becky Merja and John Hinkle.

Geist related that staffer America McMillan was updating the Landscape Management Plan. The updated plan will help determine needed staff and volunteer levels.

Forester Becky Merja related that staffer Linda Hart assembled information on heritage tree programs in other Oregon cities. A questionnaire was distributed to all stakeholder participants. A planning checklist will be used.

Merja reported that the tree planting order was delayed; the trees should arrive in mid-January for the Hayes Avenue and Country Club projects, and replacing removed hazard trees. Al Shay, OSU Horticulture Instructor, will be training his students on structural pruning of City street trees.

John Hinkle highlighted his winter work on tree planting and homeless camps.

VI. 2013-2014 CITY COUNCIL GOAL SETTING.

Hirsch related that the Council was in the process of setting its goals for its upcoming session, saying the Council meets Monday. Daniels suggested the Council look at addressing long-term funding in order to avoid continuing cuts to services.

Moon said the commission was concerned about continued deterioration of parks, and suggested considering “outside the box” ways of addressing the issue given the lack of funds. Hirsch noted the Council preferred when solutions are presented to them, not just problems. He highlighted his letter to the Council regarding a recent Garfield Park Neighborhood Association meeting, in which there was a discussion of lack of funding for painting the school and crosswalk, and how to set up a website to accept volunteer and business donations for them. He related that Benton County had the fifteenth lowest property taxes in the state, noting much higher taxes elsewhere. He related that the Oregon League of Cities was trying to craft a funding mechanism unaffected by tax compression limits.

Rehkugler summarized a draft proposed City Council Goal recommendation on Corvallis Livability and Long-term funding for parks; citing concern for deteriorating conditions of parks and an action plan on how to address that; and the Heritage Trees Program.

Passmore said the presentation to the City Council should also take a minute to present successful CBUF activities. Rehkugler added that CBUF should note that it has focused on *removing* services that the City must provide, rather than *adding* them.

VII. CITY COUNCIL/OSU LIAISON REPORTS.

Hirsch related he was just sworn in. Brown said early planning was underway for new construction on campus.

VIII. REPORT ON SUBCOMMITTEES.

Larry Passmore presented a *Grandiflora magnolia* (Bull Bay) sample, a non-native broadleaf evergreen tree from the south, which does well and is common in Corvallis. He noted that one issue with the tree is that its leaves fall throughout the year and do not compost well. Merja noted that evergreens are not legal to plant in park strips, mostly due to visibility issues with low branches, though the species is occasionally found in park strips. Hinkle highlighted locations of the tree in the area. Sanchez noted that spring flowers can fall on walkways, sometimes causing slipping issues. Livermore said that 25-30' high by 15' wide dwarf varieties were available. Moon said broadleaf evergreens are often damaged by accumulated ice and snow in the area, though Brown noted that this species was generally untroubled by that locally.

Moon asked for a presentation on local oak varieties; Brown will do so. Parkerson suggested having a discussion on evergreens and why they were not suitable for the public right of way. He noted that often people are not clear about the right kinds of trees to plant in park strips, and their eventual impacts.

Geist noted that Jackie Rochefort would be unable to attend CBUF meetings regularly, and he will be staffing the Civic Beautification subcommittee. Rehkugler noted the Urban Forestry subcommittee was working on the Hayes Avenue project. She asked the subcommittees to take stock of what they'd accomplished during the previous year at the February subcommittee meetings; Geist will glean the information from previous 2012 minutes. Moon offered to serve on the Civic Beautification subcommittee.

Merja said the commission had transitioned from its outreach component (such as staffing booths) to doing more hands-on projects.

IX. ADJOURNMENT: The regular meeting adjourned at 9:47 A.M. and the commission broke into subcommittees.



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

DRAFT
CITY OF CORVALLIS
DOWNTOWN COMMISSION MINUTES
Madison Avenue Meeting Room
December 12, 2012

Attendance

Liz White, Vice Chair
 Elizabeth Foster
 Mary Gallagher
 Dee Mooney
 Ken Pastega
 Steve Uerlings
 Mike Wiener

Staff

Ken Gibb, Community Development Director
 Sarah Johnson, Associate Planner
 Mary Steckel, Public Works Director
 Greg Gescher, City Engineer
 Terry Nix, Recorder

Visitors

BA Beierle

Excused

Heidi Henry, Chair
 Kirk Bailey
 Brigetta Olson
 Donna Williams

SUMMARY OF DISCUSSION

| | Agenda Item | Summary of Recommendations |
|-------|--|---|
| I. | Call to Order | |
| II. | Approval of November 14, 2012, Meeting Minutes | Approved as drafted. |
| III. | Public Comment (not related to items on agenda) | |
| IV. | Policy Discussion – Private use of underground and overhead right-of-way | The Commission provided some feedback; there will be an opportunity for additional input at the next meeting. |
| V. | Discussion – City Council Goals Input | The Commission provided input to staff for use in drafting a recommendation regarding Council goals. |
| V. | Staff Updates | |
| VI. | Commissioner Updates | |
| VII. | Other Business | |
| VIII. | Adjournment – 6:50 p.m. | The next meeting will be held January 9, 2013, 5:30 p.m., Madison Avenue Meeting Room |

CONTENT OF DISCUSSION

I. CALL TO ORDER

Vice Chair Liz White called the Corvallis Downtown Commission to order at 5:30 p.m.

II. APPROVAL OF MEETING MINUTES

November 14, 2012

MOTION: Commissioner Uerlings moved to approve the November 14 minutes as drafted. Commissioner Mooney seconded the motion and it **passed** unanimously.

III. PUBLIC COMMENT: None.

IV. POLICY DISCUSSION-PRIVATE USE OF UNDERGROUND AND OVERHEAD RIGHT-OF-WAY

Planner Sarah Johnson drew attention to the staff memo and draft policy regarding private development in the public right-of-way. The policy would apply to overhangs over the public sidewalk and underground parking that encroaches into the public right-of-way. She introduced Public Works and Engineering staff members who are present to discuss the proposed policy.

City Engineer Greg Gescher said the policy is being developed at the request of the City Council in response to requests in recent years to construct usable structures that extend over the public right-of-way. He reviewed the draft policy that regulates extension of private development into the public right-of-way overhead or underground as minor encroachments, intermediate encroachments, or major encroachments, which would be reviewed either as part of the building permit, administratively by staff, or would require City Council approval. The proposed policy applies to the Central Business Zone, the Riverfront Zone, and Major and Minor Neighborhood Centers. The proposed policy seeks to recover expenses for staff review as well as an amount (yet to be determined) that reflects the value of the use of public land for private development.

Ms. Gescher distributed and reviewed the following draft documents: *Right-of-Way Policy Implementation*, *Revocable License and Right to Use*, *Memorandum of License and Use of Right of Way*. He said that minor encroachments (less than 12 inches) are proposed to be reviewed administratively by staff and to have no application fee, annual fee, or insurance requirements. Intermediate encroachments (12 inches to 4 feet) are proposed to be reviewed administratively and to have an application fee of \$500 to \$750, as well as an annual fee (if occupied) and insurance requirements. Major encroachments (all other requests) are proposed to be reviewed by the City Council and to have an application fee of \$1500 to \$1750, as well as an annual fee and insurance requirements. All three types would be established by a revocable license or lease.

Mr. Gescher reviewed information from the Seattle Department of Transportation (SDOT) with the methodology they use in charging on a long-term basis for private use of the public right-of-way. The methodology uses land value, use area, rate of return (recently changed from 10% to 8%), and degree of alienation; this is consistent with how the City handled underground parking at the Renaissance Building.

Mr. Gescher said that input from the Downtown Commission and other stakeholders will be presented to the Urban Services Committee (USC) along with a revised draft policy for consideration and recommendation to the City Council.

Commissioner Wiener asked if the City Council would be giving up important control by allowing the administrative reviews. Public Works Director Mary Steckel said the USC was very comfortable with level of staff review in the draft policy. Community Development Director Gibb noted that any decisions by staff can be appealed to the City Council.

Commissioner Uerlings said he thinks this is a good policy. He suggested that the process should include protections for uses already in the right-of-way such as public utilities.

Commissioner White noted that the proposed policy prohibits alley encroachments. Mr. Gescher said the Land Development Code does not allow alley encroachments and staff has recommended that recent requests for alley encroachments not be approved due to the difficulty of making utility repairs in crowded alleys. Commissioner White noted that this Commission's Alley Improvements Committee will be working on recommendations regarding what can be done in alleyways.

Commissioner White asked if the use area used in the fee methodology would take into consideration the total square footage or only the shadow footage. Mr. Gescher said the SDOT uses shadow footage; however, he noted that construction that rises up over the overhang area would be more beneficial to the property owner and more impactful. It was agreed to suggest that this be part of the USC's consideration.

Director Gibb suggested that Commissioners bring any additional suggestions or comments to the next meeting.

V. DISCUSSION – CITY COUNCIL GOALS INPUT

Director Gibb drew attention to the staff memorandum. He said the City Council goal-setting process will begin in early January and the Council is inviting community stakeholders and commissions to provide any thoughts or suggestions for consideration. Council goals should be quantifiable, measurable programs or projects that can be accomplished or initiated within the Council term. For the previous Council term, the Downtown Commission encouraged the City Council to consider the implementation of an urban renewal program; the Council chose not to include urban renewal on their list of Council goals.

In response to inquiries from newer members of the Commission, Director Gibb briefly reviewed the urban renewal concept and the history of efforts to form an urban renewal district in downtown Corvallis.

Planner Johnson said that, in the past, the Commission considered whether there were any measurable, actionable items on its work program that would benefit from additional support from the City Council.

Commissioner Wiener said he likes the idea of encouraging downtown housing development.

Commissioner Pastega said there are many building facades downtown which don't fit with the original look. He would like a funding mechanism to help recreate the look of the old downtown.

Commissioner Gallagher said her concern is that it is difficult for downtown property owners to deal with needed seismic upgrades.

Director Gibb noted that a lack of discretionary general fund dollars has led many cities to utilize urban renewal programs to incentivize property owners to restore facades and make seismic upgrades to existing inventory.

Commissioner Uerlings said housing and urban renewal are the two work plan items that would make sense to put forward to Council.

Planner Johnson suggested that the recommendation might be to consider a broad range of financial incentives for the downtown, including urban renewal and housing incentives. She will draft a recommendation and email it to Commissioners for input directly back to staff.

VI. STAFF UPDATES

CD Update: Director Gibb said that staff is continuing to work on the City/OSU collaboration project. A fourth workgroup will be formed next spring to look at student housing, including downtown student housing. He said the Department has seen increased activity on the housing side including somewhat stronger single-family construction.

Parking Committee Liaison: The Commission had a brief discussion about downtown parking issues, costs and obstacles associated with a parking structure, and potential solutions.

DCA Liaison: Commissioner Foster said two downtown businesses are going out of business – Coleman Jewelers and Oregon Camera. The decrease in Economic Improvement District money is causing a budgetary shortfall which the Board will be

addressing during the coming year. The B2 Wine Bar is on track to open the first quarter of next year. Commissioner Foster and DCA Executive Director Joan Wessel will be attending the National Main Street Conference in April of next year.

VII. OTHER COMMISSIONER UPDATES: None.

VIII. OTHER BUSINESS: None.

IX. ADJOURNMENT

The meeting was adjourned at 6:50 p.m.



Economic Development Office
 501 SW Madison Avenue
 Corvallis, OR 97333

**CITY OF CORVALLIS
 ECONOMIC DEVELOPMENT COMMISSION
 Minutes – December 10, 2012**

Present

Elizabeth French, Chair
 Skip Rung, Vice-Chair
 Jay Dixon
 Pat Lampton
 Rick Spinrad
 Dan Brown, Council Liaison

Staff

Tom Nelson, Economic Development Manager
 Claire Pate, Recorder

Visitor

Peter Leung
 Dan Whitaker
 Tom Jensen

Excused Absence

Nick Fowler
 Ann Malosh
 Sam Angelos
 Larry Mullins

SUMMARY OF DISCUSSION

| | Agenda Item | Summary of Recommendations/Actions |
|------|---|--|
| I. | Call to Order | |
| II. | Approval of 11.19.12 Meeting Minutes | Approved w/ one correction |
| III. | Visitor Comments | For information only |
| IV. | Strategy Update | For Information only |
| V. | Focus on Big Idea #2 – City-OSU engagement on ED | For information only |
| VI. | Letter of Support for South Willamette Valley Technology Business Accelerator | Approved |
| VI. | Future Agenda Items | For information only |
| XII. | Adjournment at 4:50pm | Next meeting scheduled for 3pm, on January 14, 2013. |

CONTENT OF DISCUSSION

I. CALL TO ORDER. Chair French called the Economic Development Commission (EDC) meeting to order at 3pm, and welcomed the guests.

II. APPROVAL OF 11.19.12 MEETING MINUTES.

One correction was noted: page 2, bottom paragraph, change "Technical Association of Oregon" to "Technology Association of Oregon." The minutes were **approved** as revised, with Chair French abstaining.

III. VISITOR COMMENTS.

1) **Peter Leung** spoke on behalf of his continuing work to expand a cultural exchange program into a potential business and economic development exchange effort between the Henan Province in China and Corvallis. He handed out a memorandum of request for the commissioners to send a letter to various Oregon officials involved with trade and economic development to support these efforts. Though OSU faculty had been involved with the cultural exchange efforts, there is a need to get business organizations on board with the effort to expand this into a possible trade opportunity between this region and Henan. A cultural exchange delegation from Henan will be coming to Corvallis in January and will hopefully get a chance to talk about prospects of supportive and collaborative work between the two areas.

The following is a summary of commissioners' comments/questions (C) and responses by Mr. Leung (R):

C) What would success look like?

R) There would be business development on both sides, with Henan Province and Corvallis working together. The delegation will be presenting a report when they visit on ways that this could happen.

C) We have a limited amount of resources, and the Commission has worked on the ED Strategy for 18 months. How does this fit into that strategy, and what specifically are you requesting that a letter to the Oregon officials say?

R) The object is to eventually get the governor of Henan Province to come visit, and the idea is to get support of the Oregon officials as well for this effort. Sending a letter of support lets them know that Corvallis and Benton County are also supporting this effort, along with OSU. It is a work in process.

C) It seemed that during their last visit, they were trying to get support for building a factory in Henan Province and were not really interested in economic development in Corvallis,

R) That was the cultural delegation, and they gave a misleading message because they were not economic development people.

Chair French thanked Mr. Leung for his presentation, and said he was welcome to bring back a more concrete proposal when he had it, keeping in mind that it should fit within the ED Strategic plan elements.

2) Economic Development Manager Nelson introduced **Dan Whitaker**, and reminded the commissioners that Mr. Whitaker had sent a proposal via email prior to their last meeting. He was invited to further explain his proposal at this meeting.

Mr. Whitaker described his years of experience as a local entrepreneur and in his work with OSU, Technology Association of Oregon and other organizations. His focus has been on developing funding and strategies for economic development, and has been a Corvallis resident for 30-plus years.

Essentially, his proposal is for a renaming of economic development efforts in Corvallis and Benton County as the Willamette Economic Development Office, or “WEDO” for short. His belief is that it would be easier to attract private investment if the economic development efforts were not solely identified as part of the City of Corvallis and had a name implying a more encompassing approach. A model for this approach is the Economic Development for Central Oregon association, or “EDCO.” The intent is not to change the strategy at all, but just to change the name. Tom Nelson is already serving in a capacity of being the umbrella organization and traffic manager for information flow, and this proposal would be to simply change the name of the office.

The hope is that the Economic Development Office (EDO) staff will be able to provide the support needed for the various groups involved in economic development and entrepreneurial start-up efforts to succeed. Most of the groups are staffed by volunteers and the volunteers eventually burn out. They need help with administrative and logistic support – having an office that is a single-point of contact, manages mail lists, connects with people, and helps to plan meetings and workshops. The intent is not to have the EDO take over the content of the workshops or seminars, but just to provide the support to help make these types of programs happen.

The following is a summary of commissioners’ comments/questions (C) and responses by Mr. Whitaker and/or Mr. Nelson (R):

- C) We have been down this path before with a variety of groups such as the Economic Development partnership, Prosperity That Fits, etc. How would this be different?
- R) This is not a change in strategy from what has already been laid out by the Commission. It is just giving it a new name.

- C) How does this fit in with the Governor’s South Valley Regional Advisory Group?
- R) This actually happened simultaneously, and it is unclear how it would work together.

- C) So this is just a branding effort?
- R) Yes, very much so.

- C) Would this be setting up an expectation that Mr. Nelson’s office would be doing something for a larger geographic area than simply Benton County and the City, which is where it is getting its funding?
- R) No. One exception would be that it might also take in a bit of Linn County right across the river, as there is a lot of economic development activity at Eastgate.

- C) One of the Commission’s core concerns was the need for the City to take ownership of the economic development function, and there would be reluctance to dilute that ownership. It has been important to have this single point of contact identified as a City of Corvallis function.
- R) I agree that a single point of contact is important, but if the economic development strategy is perceived as strictly being Corvallis, it will not be as encompassing as it could be.
- R) (Mr. Nelson) I am overcoming that by basically telling people that I am the Corvallis and Benton County Economic Development manager.

- C) Describe EDCO's operation a bit more.
- R) They have been in operation since 1981, and cover two or three counties and the cities within the boundaries. They are a membership-based operation, and are a great model in that they are very successful. Approximately 60% of their budget is private sector investment.

- C) I am concerned that our limited taxpayer dollars will be eaten up by providing all of the logistic and administrative support to other groups, instead of focusing on actions to drive jobs within the City and County. However, the EDO will have to make that determination of whether this is necessary and can fit within the budget.
- R) What is needed is to create a positive, entrepreneurial culture which right now does not really exist. Startups are not supported as much as they should be.

- C) How will this change the culture?
- R) If Mr. Nelson comes out and makes a strong statement to the entrepreneurial community that his office is there to support their efforts, this will make a big difference.

- C) I still have concern about using up the City's staff and resources managing and supporting activities of the other groups. Groups like WIN should be getting sponsorships.
- R) If the EDO staff do not do it, who will? The volunteers who have been working on getting sponsorships and doing logistics get burned out. There is no consistency through the years, and the hope is that the EDO can help with that.

- C) Another culture that needs work is that which more closely aligns OSU with the City efforts. OSU might be able to provide some intern support for the EDO. It would be nice to bring the two pieces together and be able to tell the principals of potential startups coming out of OSU that there is a one-stop place for information and coordination, like the EDO, or WEDO, or whatever it might be designated.

- C) This sounds like a toe in the water of providing a supportive cultural environment so people can succeed in Corvallis. It will be a longer journey to get to that end, but Mr. Whitaker has been in the thick of it, and he is certainly more sensitive to what the needs are. We should pay attention to the people who have been immersed in it if we are to achieve our overall strategies.

- C) There certainly seems to be a lot of commonality with the ED Strategy's "big ideas" and "smaller steps."
- R) Yes, and I am not asking for changing any of the strategy, just looking at a renaming, or branding, effort.

- C) The idea of some branding and marketing is good. The City and County will need to weigh in on the idea of renaming the office, which might or might not be necessary to accomplish this.

- C) My concern is that this would be one more layer of something, which would be the last thing we need.
- R) I am trying to avoid this and it is not the intent of the effort. It is just revamping with a different name.

- C) If we were to undertake a renaming or rebranding effort, it might be appropriate to roll it out as part of the meeting and collaborative process with OSU to explore the mutual benefit of working together on economic development.
- R) OSU is already working on a strategy, and this is not intended to steal their thunder. This could be intimately involved with that.

- R) Some other ideas include shutting down the BEC, and putting our resources elsewhere. It is important to look at all of the things we are doing and get rid of some that are not working, such as the WIN conference, and put more meat behind other activities.

- C) What is your major “ask” for us?
- R) It is the very tactical “ask” of making sure Mr. Nelson has the resources to help with the logistics problem.

- C) This will be up to Mr. Nelson to determine what needs to be done, and then for him to work it out with his boss, City Manager Patterson. He knows what his funding is and what he needs to get done. Mr. Nelson does not have to come to the Commission asking for permission to do this if they determine it needs to happen to accomplish the bigger strategy.

- C) OSU will be rolling out a strategy shortly, and it will require a certain level of engagement with the City. This would not be another layer but might be more aptly described as better “connective tissue.” From the University’s perspective, this effort will start getting really complicated with a lot of moving parts. It is important that there be a simplified way of engaging with the City, with very clear delineations of authority. This might not necessarily require a renaming, or rebranding, but will have to happen whether it is by design or by default.

- C) Though I do not have a clear idea in my mind of what it will look like in 3, 5 or 10 years, I have a view of where it is we need to be headed as a community. It is all set out in the Strategy, and will likely require a lot of relationships that have not been developed yet. The intriguing thing about Mr. Whitaker’s proposal, the comments about EDCO in central Oregon and the rest of the discussion is that it leads us into exploring the need to be bigger than just the City and the County which might hinder us in the long term. We need to be open to other structures and other partners and other opportunities that present themselves. I am in favor of looking at all of this.

- C) We also need to get to a language that everyone can understand; we use too much jargon.
- R) Sometime, perhaps, I can present the process funnel we have developed which helps to coordinate the language.

Chair French thanked Mr. Whitaker for his comments and proposal. Mr. Nelson said that he would be enlisting some marketing help for some branding. Corvallis has assets that need to be marketed; this was also brought up in his discussions with State officials. He had wanted Mr. Whitaker to share his proposal with the EDC so they would have an idea of how it might take shape down the line as they work towards fulfilling the strategic objectives.

- 3) **Tom Jensen** said he was offering his comments under the auspices of diversity and sustainability. He does not appreciate the proliferation of umbrella or coordinating groups. Usually, he will make a call to someone and they can point him in at least another direction. His interest tonight is that he has read the Economic Development Commission page with the goals, mission statement and other information; and he is trying to discern what can and will be done and how much energy will be committed to stimulating economic development independent of the University. His concern is that just as Hillsboro's brand is Intel, he does not want Corvallis' brand to just be OSU. He appreciates the symbiotic relationship and the nurturing of startup companies, but the community needs to operate independently of the University as well. Therefore, he would like to know what energies are being directed towards fomenting development independent of OSU. He sees the university as being "low-hanging fruit." He said he would leave his email address on the sign-in sheet in case anyone had a response.

Chair French said that, speaking for herself, the Commission had decided early on that they were going to focus on the "low-hanging fruit." The City has a limited amount of resources so there was a deliberate choice to focus on those efforts that are aligned with OSU and the spinoffs that are coming out of the University. That is why the strategy, which will likely change and mature over time, is focused on taking advantage of that relationship, and using it as a lever for the City to gain economic development capital investment and jobs. Part of the account manager's responsibility will be to look after businesses and industries and help position them to stay in the community.

Mr. Jensen then asked for an explanation of the terminology "gazelle" as it relates to a business. Commissioner Rung said that this pointed to the earlier discussion about jargon and having easily understood terminology. A "gazelle" business is a fast growing company which has the potential to create jobs rapidly. Some examples are Korvis Automation and InsightsNow, Inc. These two "gazelles" are two businesses with great opportunities for growth, selling services outside of the City. Mr. Jensen said he hoped the efforts would be there to keep them here in the City, because the terminology "gazelle" also has the connotation of an animal that eats and runs. Corvallis has lost several businesses once they reach a certain size.

IV. STRATEGY UPDATE.

Tom Nelson asked for some input with regard to the ED Strategy "Big Idea" #1, relating to providing "critical financial assistance to growing businesses through tools such as (a) Urban Renewal Districts....." He would like input on timing because if it is a high priority, critical item he would need to get more direction on identifying the intent, size and location of such a district. There are opportunities for doing this, but it is a long process. Commissioner Rung said that it had been identified as a "Big Idea" knowing that it was a long-range goal requiring some resources that they do not currently have. He suggested that Mr. Nelson look at the staffing memo the EDC had worked on with Community Development Director Gibb prior to his hiring for some direction. There had been some discussion about how a district might roll out. Chair French said that the EDO was going to need a program fund sooner than later, and this would be an important initiative to begin work on, whether it be some tax increment financing, a business license fee or other resource. He needed to familiarize himself with Corvallis' last effort at getting an Urban Renewal District passed by the voters, if he had not already done so.

In response to a question from Commissioner Lampton about what a District might look like, Mr. Nelson said he would need that input from City Council after they received input from EDC. They would need to do some brainstorming about strategy for placement of a district and what projects might be involved. In order to succeed, it is critical to have a prioritized list of projects for inclusion early on in the process. The voters then have a clear idea of what they are voting on.

In terms of "Big Idea" #2, there would be additional discussion in January with the potential rollout of an initiative from OSU.

"Big Idea" #3, relating to property, land and development, has been partially addressed through the Community Development initiatives. Mr. Nelson asked for additional discussion relating to pursuing development of a research park, in that there is already property available in the City at the Sunset Research Park, HP campus, and the Airport Industrial Park. Commissioner Lampton said that this had come out of a conversation relating to the McFadden annexation and the possibilities that existed for establishing a Research Park in that particular location with its adjacency to HP. Chair French said they were trying to put some ideas on the page of what would help. Though there are existing vacancies, most are not configurable, affordable or desirable, using OSU's Microproducts Breakthrough Institute facility as a comparison. Mr. Nelson said that the information shared was useful.

Commissioner Rung added that another idea behind Big Idea #3 was to make land availability and permitting processes advantages as opposed to liabilities; i.e. changing the perception through benchmarking verification that Corvallis is best-in-class regarding comparable university towns.

Mr. Nelson then ran through progress made on the "Smaller Steps."

Smaller Step #1: Activity highlights include the signing of an Inter-governmental Agreement with the Council of Governments (COG) to help in developing a list and contact information on existing businesses. They will be purchasing some software called Executive Pulse that is robust, used widely and from which good reporting can be obtained. He hopes to have this in place in time for the new Account Manager. Additionally, the EDO website now connects with the "Expand in Oregon" website, which is a detailed database of available properties within the State, and can be drilled down to the county level.

Smaller Step #2: His interpretation is that supporting programs sponsored by other partners takes involvement along with some financial support. Though he does not see himself as secretary to all of the organizations, he does envision the EDO as being a common point where people can find out when/where events or meetings are happening. The EDO website will also have a list of upcoming events.

Smaller Step #3: They anticipate having an Account Manager on board by the middle of January. Chair French suggested that they consider having a commissioner sit on the final selection interview panel.

Smaller Step #4: In the past, Business Oregon formed an organization formed an organization called Oregon Economic Development Associations which was basically made up of people in his position all over the state. This group then partners with Business Oregon on several fronts, one of which is called Team Oregon which addresses various industrial sectors. Corvallis EDO is now a member of Team Oregon food processing. This

will be useful in meeting some of the needs of our small food product startups in our area by getting them connected to Team Oregon. Team Oregon is going to three conferences coming up, with two of them in California. Corvallis will be represented by a local cracker company at the Rogue Brewery reception in San Francisco as part of this event.

The EDO needs to have a marketing plan, and he will be addressing this need. Additionally, he has been contacted by Sean Stevens, Business Oregon, who wants to start making joint visits with the Account Manager, when that person is hired.

Small Step #5: The EDO website now has a link called Financing a Business which leads to three other sites that have business financing programs and contacts information. One of these is the Cascades West, which has information about the SBA Loan program which is helpful for small businesses. Another interesting development was that at the last loan committee meeting, Citizen's Bank participated in one of the loans. Additionally, the COG has lending programs for Benton County that are fairly flexible, easy entry and low-interest loans and are not fully utilized. It is important to get the information out, and having the links on the website will help with this. Chair French suggested that they pursue getting an article in the Gazette-Times to publicize the fact that this type of financing is available.

Small Step #6: The EDO is partnering with the Civic Outreach group and using their resources to help with the welcoming program. Chair French suggested that businesses might not be aware that the Civic Outreach exists. Their existence is not well known. Commissioner Lampton said that since the Welcome Wagon program went away, the Civic Outreach has been more of an executive program accomplished by Linda Powell. Mr. Nelson said he would make contact with her again to find out how word gets out to businesses that the program exists.

In closing, Mr. Nelson drew attention to the Business Activity Report in the packet. Since that time, he had been contacted by a realtor looking for a possible site for building a facility of about 150,000 square feet. He passed along information about the Enterprise Zone to the realtor. He had also been contacted by another business prospect that will be back in contact after the new year.

V. FOCUS ON BIG IDEA #2 – CITY-OSU ENGAGEMENT ON ECONOMIC DEVELOPMENT.

Mr. Nelson said that a meeting had been scheduled for December 12, with Chair French, Rick Spinrad and Skip Rung, to discuss and plan for the meeting with OSU, which has been tentatively set for February 20, 2013, from 5 to 7pm. Chair French encouraged all commissioners to email any input or feedback they might have relating to the upcoming EDC-OSU meeting. It was suggested that another fundamental question that needed to be answered in order to plan for the event is: "What is the intended outcome?" There are a variety of answers to that question, and the chosen answer will drive the content of the meeting.

VI. FUTURE AGENDA ITEMS.

The next meeting is scheduled for January 14, 2013, and will be used to focus on the February meeting with OSU, along with a Strategy update.

Chair French said that City Manager Patterson is looking for input for the City Council goal-setting session occurring in January. Certainly, the EDC should be encouraging the incoming City Council members to become familiar with the ED Strategy. Council Liaison Brown said that his hope is that City Council will be coming up with an ongoing goal related

to economic development. Commissioner Lampton added that since it would be two additional years before another goal-setting session would be held, if there are thoughts about pushing for an urban renewal district there might be a need to make that pitch now. Chair French agreed, and suggested that a goal might be to evaluate the merits of financing the Economic Development program fund with specific emphasis on urban renewal. The Commission agreed that the EDC might need a basic urban renewal training session at an upcoming meeting.

Chair French pointed out that another need was to commit to some public outreach, whether that was a topic for an upcoming session or something to put into the goal-setting process. Commissioner Lampton said that Mr. Nelson had been out talking with groups and agreed that it was an essential part of their charge. The average community member needs to know how economic development makes their life better. The connection needs to be made between capital investment and the ability to support community amenities such as the aquatic center, parks and open space, etc. A part of that task is to look at using clear language. Mr. Nelson suggested that the Leadership Corvallis – Economic Vitality Day planning group was preparing a day of training that got to the heart of this discussion, and it would be a good one to share with the public at large.

Chair French asked Mr. Nelson to send out a reminder to commissioners relating to submitting comments for the upcoming City Council goal-setting session.

VII. LETTER OF SUPPORT FOR THE SOUTH WILLAMETTE VALLEY BUSINESS ACCELERATOR INITIATIVE

Mr. Nelson read the brief letter of support that would be sent out to the federal delegation and to the Governor's Office on behalf of the EDC. Chair French explained that each commission member would have a signature block, instead of just having her signature.

VII. ADJOURNMENT/NEXT MEETING.

The meeting adjourned at 4:45 p.m. The next meeting is scheduled for January 14, 2013, at 3:00 p.m., Madison Avenue Meeting Room.

**WATERSHED MANAGEMENT ADVISORY COMMISSION
MINUTES
November 28, 2012
DRAFT**

Present

Charlie Bruce, Chair
Jacque Schreck, Vice-Chair
Sheryl Stuart
David Zahler
Creed Eckert
Racquel Rancier
Jessica McDonald

Staff

Jennifer Ward, Public Works
Tom Penpraze, Public Works
Mark Miller, Trout Mountain Forestry

Visitors

Ken McCall
Frank Davis, Siuslaw National Forest
Xan Augerot, Marys River Watershed
Council

Absent

Richard Hervey, City Council Liaison

SUMMARY OF DISCUSSION

| Agenda Item | Information Only | Held for Further Review | Recommendations |
|--|------------------|-------------------------|---------------------|
| I. Call Meeting to Order/ Introductions | X | | |
| II. Review of Agenda | X | | |
| III. Review of October 24, 2012 Minutes | | | Approved as amended |
| IV. Visitor Propositions | n/a | | |
| V. Old Business <ul style="list-style-type: none"> • Cultural Resources Evaluation • Stewardship Plan Update: Status and Outreach | X X | | |
| VI. New Business <ul style="list-style-type: none"> • 2012 Forest Activities Report • Rotation of WMAC Leadership Positions • Location of February 27, 2013 Meeting | X X X | | |
| VII. Staff Reports | X | | |
| VIII. Commission Requests and Reports | n/a | | |
| IX. Adjourn | n/a | | |

CONTENT OF DISCUSSION

I. Call Meeting to Order/ Introductions

Chair Bruce called the meeting to order and those present introduced themselves.

II. Review of Agenda

No changes were made.

III. Review of Minutes

Chair Bruce stated that Xan Augerot is with the Marys River Watershed Council, not Marys Peak, as she was listed in the October minutes. Mr. Miller also corrected the spelling of Rich Szlemp's name. Commissioners moved and unanimously seconded the motion to approve the October 24 minutes.

IV. Visitor Propositions

None.

V. Old Business

Cultural Resources Evaluation

Mr. Penpraze stated that staff has received the archaeologist report for the watershed, which included a statement that further cultural resource investigations for features for the watershed are recommended. Mr. Miller stated that cultural resource investigations are called for in the Stewardship Plan and provided details on what the investigation involved and what was found. He stated that the City is not required to do any further research.

Stewardship Plan Update: Status and Outreach

Chair Bruce reported that the subcommittee has made progress, but there is much more to do. The revised plan will include the following updated provisions for outreach.

- Creating a list of possible ongoing or one-time research projects and volunteer activities that could be undertaken by students and/or community members.
- Providing a standardized presentation that members of the commission could use with their own personal and professional contacts.
- Developing an in-the-classroom and/or outdoor education curriculum that could be used with local schools.

VI. New Business

2012 Forest Activities Report

Mr. Miller presented the 2012 Forest Activities Report and the Commission discussed the document and the difficulties associated with budget planning. Comments will be submitted to Ms. Ward by Friday, December 7.

Rotation of WMAC Leadership Positions

The Commission discussed, at Chair Bruce's request, electing new leaders for the next year. Nominations for a new chair and vice-chair will take place at the January meeting.

Location of February 27, 2013 Meeting

Ms. Ward stated that the usual room is not available for the February 27, 2013 meeting and the Commission discussed alternate locations to meet.

VII. Staff Reports

Mr. Miller reported the following.

- The fiscal year 12-13 harvest was suspended in mid-October due to conflicts over road use. All of the payments from log sales are in, totaling \$80,472. There were 42 truck loads, with about 167,000 board feet, which is about 35% of the anticipated harvest. The plan is to resume the harvest in May or June.
- A meeting was held on October 26 between Mr. Miller and B&G Logging to discuss shared usage of Franklin Ridge Road.
- Trout Mountain had their annual FSC audit on the 19th and 20th. They visited one of last year's harvest sites on the 20th, specifically looking at some of the variable retention harvest units. Retention levels exceed Forest Stewardship Council (FSC) requirements. The auditor also interviewed stakeholders, including Mike Hinton and Jim Fairchild, who had contacted FSC regarding the City's FSC certification, making allegations about overharvesting and other issues. The auditor did research and found no grounds for those allegations.

Mr. Penpraze reported the following.

- Trout Mountain has not charged the City for maintaining their FSC certification.
- Staff put rock in at the bottom of the South Fork fish ladder.
- 3.31 inches of rain fell on the watershed in 24 hours and over 7 inches in 48 hours during a large storm earlier in October.
- The Marys River Watershed Council is going to bring the Oregon Watershed Enhancement Board's O.F. Contingent to the watershed to look at the lower reach of the Main Stem Rock Creek for wood placement.

Ms. Ward reported the following.

- She included the songbird monitoring report in this meeting's packet.
- Mowing for peacock larkspur is complete.
- She went with Barb Ellis-Sugai, USFS, to pull some of the temperature probes and Ms. Ellis-Sugai is working on the data.
- Staff received new maps showing the northern spotted owl.

VIII. Commission Requests and Reports

None.

IX. Adjourn

The meeting was adjourned at 6:30 p.m.

NEXT MEETING: January 23, 2012, 5:00 p.m., Madison Avenue Meeting Room

The following documents are previous correspondence from Jim Fairchild, as well as responses from Mark Miller, the City's consulting forester, and Paul Henson of USFWS. These documents are included with the November minutes at the Commission's request.

Public Testimony to the Corvallis Watershed Advisory Commission: February 29, 2012

Jim Fairchild, former Commissioner, neighboring landowner, abutting land manager

- 1) I have not been conferred with regarding restoration activities (snag creation), or planned stand entry for thinning in 2012, which would be in violation of *Neighbors* S&G 4, nor notified of these activities beforehand, which would be in violation of S&G 1.
- 2) The final S&Gs appear to not actually be final yet, as the document sent yesterday has markup questions (i.e, DZ3 comment on *Water Quality S&G 4*) The direction of change of this particular S&G received more public testimony than the CWAC has received.
- 3) At the last CWAC meeting, I asked whether all the information presented at the last public meeting was presented to the Commission.

One concern I expressed at that meeting was how the questions and comments from the audience would be recorded and reviewed. The response was that the meeting was being recorded, and the Commission would review that information (former Chair Fehrenbacher). Flip charts were distributed around the room, where people were encouraged to record, or have recorded, their comments or questions. Comment cards were also made available.

Did the Commission listen to the recording, review the flip charts, comment cards, or otherwise confirm that all the information was provided to them at their January meeting? I know that some of my comments, written on the flip charts, were not presented to the Commission at the January meeting, yet the information given the Commission by city staff was alleged to be complete.

- 4) At that same public meeting, I asked a question regarding two management techniques listed in the revision; Individual Tree Selection (ITS, S&G 2b.v), and Variable Retention (VR, S&G 2b.vii). I asked this because my concern that neither technique are descriptive enough to differentiate them from other listed techniques, nor are they described in silvicultural literature as stand manipulation techniques. In response to my question, Chair Shreck asked that TMF provide a response to clarifying "Variable Retention." But TMF's response only defined variable density thinning(VDT, S&G 2b.ii), already well-defined and broadly applied in forest management.

So my concern remains of retaining these two management techniques within the S&Gs. ITS is actually a better descriptor of TMF's former business name than any replicable stand manipulative activity, because it is not applied in the industry, except as the more recognized "free thinning", where actual selection for cutting or retention has no replicable standards or guidance. VR, on the other hand, is a broader conceptual management technique that is applied across stand ages, with the generalized goal of developing stand structural heterogeneity. VR can be accomplished using any of the already-listed management techniques, but itself has no guideposts of methodology which can result anywhere between the two extremes of clearcut or a single-tree removal. Indeed, under current Forest Practices rules, all clearcuts over some 20 acres in size would meet these given Variable Retention standards, because of current leave tree requirements.

I specifically asked, and recorded on the flip chart that Mark Miller supervised, which stand management techniques 1. could, and then 2. would alter or reset stand ages, when applied in the Corvallis Forest. This is a critical point. Stand age continues to be applied as an inventory tool for this Forest, and it also helps Corvallis define the general condition of the Forest. And more importantly, the general public does not understand that some of the listed stand manipulation techniques may result in younger, rather than older forest stands: Conventional Thinning, Patch Cutting, Variable Retention, Individual Tree Selection.

- 5) My final question, again regarding American Marten habitat, has yet to be answered. Commissioners Bruce and Zahler have responded, in part, that martens may not even be present, with Commission Zahler going so far as to indicating that he knows that the nearest marten populations are on the coast, without reference or citation.

As with marbled murrelet and spotted owls, presence or absence of individuals of these species are transitory measures, so the CFSP is focuses on addressing habitat needs. The CFSP clearly states that marten habitat will be “maintained and enhanced”, yet the latest response by TMF ignores the actual loss of suitable marten habitat in naturally-regenerated, mature, closed-canopy forests that are more than 80 years old, which are slated for thinning, which are stands that may later be treated under a VR regime—see above. Thinning, especially for harvest, will inevitably open crowns, remove snag and downed wood recruitment, and reduce optimal foraging, nesting, and denning habitat for many decades. Thinning these stands reduces current marten habitat on the forest, which will not be replaced by maintaining current old-growth stands. Replacement rate of these lost habitat acreages is measurable in multiple decades, but not mapped out.

Summarizing then, the CFSP, and not any endangered species rule, is the guiding document for management of the Corvallis Forest. Current operations and plans violate the “maintain and enhance” marten habitat because no current habitat outside current old-growth is being maintained. No standard and guideline is presented to assure there is no reduction of current marten habitat. And my final point, the apparent absence of martens is no excuse for ignoring the CFSP guidance.

March 28, 2012 Testimony to Corvallis WMAC
Jim Fairchild

Starting from current issues and questions and going backwards in time:

1) In the attached email to Tom Penpraze and Amber Reese sent Monday, I asked why a significant matter reported by TMF of management activity, and discussion from last meeting was not in the minutes. This had to do with the non-harvest of one of three units that were to be completed this year. In addition to this email, which questions the sustainability of volume shiftings and skippings and treatments, I'll remind the Commission that they discussed why this third unit could not be done this year. And I'll remind all that Amber's January 18 report to the Commission stated that all three unit operations were well underway.

The most troubling aspect of glossing over this unforeseen end to planned operations is that overharvesting outside of prescription removal of volume occurred. It raises the very real possibility that stand modeling and harvest level projections are inaccurate and therefore potentially unsustainable.

In my conversation with the SCSCAR report author yesterday, Kyle Meister expressed concern in

this as well, and planned to discuss it with Mark Miller . At his suggestion he asked if he could have Mark contact me at the earliest opportunity to discuss this, to which I agreed.

2) FSC certification audit; CAR report from SCS

Corrective Action Request of TMF, 2011.2, has been open under other CARs since 2009. These are not due to the change in Pacific Coast to U.S. Standards but mostly have to do with Forest Management Plans that lack designation and description of HCvFs and RSAs in Forest Management Plans and lack social impact assessments. TMF has begun to address these, with the brief attachments in this month's WMAc packet, but now these have little chance of required public review, since they were presented after the special library meeting in January.

Here are other open CARs TMF needs to address in its management of the Corvallis Forest:

2017.3- chemical use records deficiencies maintaining written prescription records.

2011.4- hazardous chemical spill training and preparedness deficiency.

2011.5- non-conforming recognition of inner and outer stream buffers required by FSC.

2011.8- appropriate monitoring of status and attributes of HCvFs- this pending FMP adoption.

2011.1,-9 social impact assessment-also pending FMP adoption.

2011.10- HCvF types descriptions lacking pending but now lacking public review.

2011.11- inconsistent completion of Operations Inspections Reports

3) Getting back to old business;

I asked last month in my verbal testimony if TMF could explain the need for including Variable Retention as a silvicultural technique. I am concerned that it is retained in the S&Gs because it allows for clearcutting and unlike most other silvicultural methods described, allows significantly large enough harvests that stand age would be reset to zero. This has not been adequately described in public meetings, is contraindicated by the great majority of public input through the CFSP development and is also counter to TMF's representation to SCS of moving towards uneven-aged management. It is precisely because uneven-age management is the current direction of the plan that FSC is allowing a higher level of harvest in the Corvallis Forest than would be allowed on similar acreage in other ownerships.

The specific description of VR does not present any case where other silvicultural treatments, such as patch cuts, cannot equally and successfully address biological concerns. Loose phrasing allowing operational imitations to preclude thinning opens the door to the lowest-cost form of logging in each and any instance. Inclusion of this silvicultural method with this wording offers a lower standard than the CFSP envisioned and no practical guidance.

This question presented in my testimony last month with Mark Miller sitting beside me, was a very clear demonstration that barriers to reasonable and effective communication exist in the public process and that a question, which I first asked in November, has not yet been openly responded to in four months. In fact, there has been no response or clarification offered.

I do not think the WMAc has reviewed and discussed all the relevant public input received on the Standards & Guidelines revisions. Has the WMAc seen or reviewed all the flip chart pages and comment cards from the library meeting? Has staff or TMF acted as a filter to screen out any input presented?

Existing marten habitat in the Corvallis Forest occurs outside old-growth stands. TMF's response ignores the CFSP need to maintain and enhance current marten habitat that exists outside old growth stands, and provides no protection for, or S&Gs to forestall non-old-growth habitat loss. Commissioner Zahler's February response that a temporal low in habitat conditions-the wait 'til it gets better approach-is a bait with no sideboards to conserve habitat for either the Interim or the long term. You can either create S&G to address this, or not disturb current marten habitat until you have actually created more.

I would like TMF, or anyone on the Commission to respond to my concern that the two stands that were treated this year, are also currently on the slate for another harvest entry in 10 to 15 years. Van Decker, of B&G Logging who did these operations, told me he did not think there would be anything left to harvest even in 15 to 20 years. Now that they have possibly been

overharvested where does this leave the assurance TMF gave USFWS murrelet consultant Kevin Maurice that these units were being treated to accelerate old-growth conditions suitable for murrelets? Does the Commission think it is still wise to skip reasonable and cautious pre-sale murrelet surveys when allowing harvests adjacent to old-growth forests with suitable habitat for murrelet nesting?

Hi Tom and Amber,

According to my memory, my notes, and my own discussions with Van Decker (B&G Logging) during this meeting, only two of the three units scheduled were actually thinned this winter, or in your parlance "harvested", partly because city budgetary restrictions clearly segregate costs of operations from revenue stream, and cost of thinning (usually paid to the logger based on volume harvested) would exceed the budget for thinning the third unit. Commissioner Zahler even suggested altering funding streams to directly use harvest income to pay additional thinning costs so that the third unit could be thinned. Tom explained why this was not possible. None of this discussion is mentioned in your draft minutes.

The larger omission in the draft minutes was that the 2011-2012 planned "harvests" were not completed, because more volume was removed from the first two units than was prescribed. There are only two ways this could come about. First is that the stand inventories were incorrect, and the second is that the prescription for stand treatment was not followed. In either case, B & G Logging cut only marked trees, and foresters are trained to tally the trees they mark. These tallies provide a 100% census of all trees to be cut, and therefore all volume to be removed-BEFORE it is cut. If your forest consultant cannot correctly measure volume using either sampling or censusing each tree they mark, you have a problem you must address without delay.

Regardless of how this error occurred or who administered the stand treatments, it is significant at a number of levels just at the tree-growing level.

- 1) First, treatment prescriptions need to be followed for silvicultural results to succeed. If you overcut a stand, its growth trajectory most often diminishes-there is a loss in volume production. Not only are stand volume projections altered, but other desired future conditions changed.
- 2) These stand treatments were allowed by USFWS murrelet biologist Kevin Maurice without prior murrelet survey, because, as Kevin told me, the stands would be treated to accelerate old-growth conditions suitable to future nesting. TMF marked and had cut additional volume from these stands, altering their trajectory, and has acted outside the USFWS agreement.
- 3) TMF has projected to the CWMAC that these same stands will be re-entered in the next 15-20 years, so that a constant revenue stream can be generated for watershed operations. I questioned this in April of 2011. Kevin Maurice was not informed that retreatment was projected in these stands. And Van Decker also speculated to me after completing these thinning that there would be "nothing left to cut" even after 15-20 years.
- 4) Overcutting two units outside of treatment prescription and not treating another unit doesn't "average out" future volume production, nor does it meet other desired future conditions for each stand. The uncut stand growth production of harvestable volume continues to decrease and recovery of harvestable volume production growth rate in the treated stands is stagnated-there are fewer trees retained to grow.

These are only silvicultural considerations for which you have hired a forestry consultant that has no other expertise- in GIS, wildlife, hydrology, botany, restoration, or in silvicultural modeling. All of these skills are necessary for implementing a successful forest management plan that attempts to achieve goals outside timber production. Forest management is not primarily about harvest volume and revenue generation-please re-read the Guiding Principles of the CFSP. It is about sustainably managing a resource to meet multiple objectives. The draft minutes statements that 2011-2012 harvests are complete entirely miss this point.

Jim Fairchild

April, 2012 J Fairchild

Stand Age review for CFSP/TMF evaluation of Stand 200

In 1993 Woodland Management Inc. submitted a management plan for City Watershed lands, referencing the 1984 City Timber Management Plan, prepared by Gene Klingler, USFS Alsea District Silviculturist. In Section C: Figures and Tables, Table 1 describes by Unit number the estimated acres, 1984 stand age, trees per acre, and current volume predicted as of 1993, presented below:

Currently labeled Stand 200, three units are described, and labeled 20, 23 and 24

| Unit Number | Acres | 1984 Age | Trees per Acre | 1993 Volume/Acre | 2012 Age |
|-------------|-------|----------|----------------|------------------|----------|
| 20 | 25 | 32 + 55 | 647 | 20 | 60 +83 |
| 23 | 46 | 42 | 252 | 22 | 70 |
| 24 | 59 | 42 | 500 | 27 | 70 |

Unit 20 is downslope of the FS 3005 Road, and directly north of the Liff-Anderson property. The city purchased property from the prior property owners, so there is an unreflected additional acreage of similar stand origin that was not actively managed.

Unit 23 is generally upslope and north of FS 3005, generally to the ridgeline to the north, and westward to the USFS property boundary. It does include acreage within the Griffith Creek catchment area above FS 3005 where the final hairpin turn returns again onto USFS property up Franklin Ridge. This area has been thinned, likely pre-commercially.

Unit 24 includes all acreage downslope of FS 3005 and west of the private properties boundary in Section 30. No thinning appears to have taken place in this acreage. Dominant and subdominant trees cut in 2006 immediately adjacent to this unit were 125 years old (by ring count), where growth form and stand origin from early 1900s cutting was the same.

Corvallis and TMF should be required to explain how three identifiably distinct stands:

- 1) Are being lumped into a single stand.
- 2) Are now aged by the youngest portion of only one of the three identifiably different stands.
- 3) Are now aged based on the youngest portion of roughly 20% of the entire Stand 200 acreage.
- 4) Have come to be a decade younger.
- 5) Do not have to also describe significantly older portions of Stand 200 of different stand origin.

Allowing moving this Harvest Plan forward, or to bid on, or to award rights to harvest this proposed, should not be allowed by the Watershed Management Advisory Commission, without answers to these questions.

Meeting Minutes Supporting Information 2/29/12

Corvallis Watershed Management Advisory Commission

March 28, 2012

An email received from Jim Fairchild 3/22/12 suggests certain information about the FY 2011/12 harvest was omitted from the 2/29/12 Draft WMAC Meeting Minutes, and makes a number of allegations regarding management of forest management operations at the Corvallis Forest. The following are supporting information and pertinent facts regarding those allegations:

1) “harvests were not completed because more volume was removed from the first two units than was prescribed.”

This is incorrect. Volume removal was within 2 and 7.5 percent of projections (see below). Volumes presented in harvest plans and sale offerings are projections, and may vary due to acreage variance, log defect, insect/disease occurrence, or a host of other reasons. Unit 126 was not harvested at this time to ensure total logging cost did not exceed the amount budgeted.

| | Unit 305 | Unit 123 | Unit 126 | Total |
|--------------------------|----------|----------|----------|---------|
| Projected harvest volume | 400 mbf | 200 mbf | 150 mbf | 750 mbf |
| Actual harvest volume | 392 mbf | 215 mbf | 0 | 608 mbf |
| Percent difference | -2.0% | +7.5% | | |

2) Either “stand inventories were incorrect”, or “the prescription for stand treatment was not followed.”

This is also incorrect. Stand prescriptions were deployed precisely as detailed in the Harvest Plan. There is an understandable desire for exact “tallys” or cruises, but in practice even a 100-percent tree tally may vary by 5%, due to tree height variation, log merchandizing on the site, and most importantly, later decisions about market destinations, which may affect recovery, over-run, etc. Our stand volume estimates are based on the 2010 Forest Resources Inventory, which has an overall statistical error of 3.1 percent (although error at the individual stand level ranges from 5 to 100 percent).

A post-harvest review meeting between Trout Mountain Forestry and Public Works staff 3/13/12 discussed the benefits of preparing a second volume projection after final harvest layout; this will be included in future harvests.

3) The work done on the forest -- TMF work specifically -- was “outside the USFWS agreement” for marbled murrelet habitat

This is incorrect. USFWS biologist Kevin Maurice reviewed unit 123 harvest goals and prescriptions on site prior to final harvest layout. He supported the prescription: thin removing up to 70 percent of trees to speed the growth of larger trees; retain trees in clumps to enhance wind-firmness and maximize light available to new seedlings; and planted trees in openings to develop multi-aged stand structure. We did not deviate from this prescription.

4) Completing these thinnings results in “nothing left to cut, even after 15-20 years.”

Thinned areas of unit 305 retained ± 60 percent of the original stand. These areas will be ready for a subsequent thinning in 15-20 years. In other areas of unit 305 patch cuts in root rot pockets were replanted to resistant species; these new seedlings should be ready for a first thinning in 25-30 years.

Unit 123 is designated as a Reserve Area. Thinning here was designed to create a multi-aged stand structure. The need for any subsequent thinning to ensure good growth of planted trees will occur in 10-15 years.

5) Our forestry consultant “has no other expertise--in GIS, wildlife, hydrology, botany, restoration, or in silvicultural modeling.”

Trout Mountain Forestry maintains in-house GIS capability using the PC-GIS and Arc-GIS platforms, and has created numerous maps for CFSP revisions and operations. We utilize the latest version of Forest Projection and Planning System (FPS) software for forest inventory processing and silvicultural modeling, and created visual representation of various stand-modeling scenarios for the 2010 Forest Resources Inventory Report. Our restoration experience includes oak savanna and woodlands, plantation conversion for forest diversity, fish passage, and stream habitat enhancement, at a variety of geographic settings and spatial scales.

We are general practice foresters, and engage in continuing education in a wide array of ecological topics, including wildlife, invasive species, rare plant restoration, and ecosystem services. When we encounter situations that exceed our expertise we consult with experts on other disciplines.

FISH AND WILDLIFE SERVICE
Oregon Fish and Wildlife Office
2600 SE 98th Avenue, Suite 100
Portland, Oregon 91266
Phone: (s03)231-6119
FAX: (503)231-6195

Mark Miller
Trout Mountain Forestry
6655 NW Grandview Drive
Corvallis, OR 97330
mark@troutmountain.com
tel: 541 ,602.2180

Subject: Proposed Second Growth Thinning and Take Avoidance of Marbled Murrelets in the Corvallis, Oregon Watershed

Dear Mr. Miller:

This letter is a follow up to a site visit by U.S" Fish and Wildlife Service (Service) biologist Kevin Maurice with you on May 5, 2011, to the Corvallis, Oregon, Municipal Watershed. The purpose of the site visit was to review the proposed 2011/2012 Harvest Plan for the Corvallis Forest (harvest plan) on the ground and evaluate the potential of impacts to marbled murrelets (murrelet) and strategies to avoid disturbance take of murrelets.

The 2011/2012 Harvest Plan for the Corvallis Forest proposes to thin approximately 64 total acres of second growth forest in three harvest units. These harvest units are not murrelet habitat but are adjacent to stands that would be considered murrelet habitat. No surveys have been conducted in this adjacent habitat but it is similar in structure and composition to surveyed and known occupied murrelet habitat within the watershed. A seasonal operating restriction for timber harvest and road building work within 300 feet of occupied murrelet habitat should be observed during the breeding season. The proposed harvest is planned after the murrelet breeding season (after September 15) or will operate with a daily timing restriction of 2 hours after daylight and two hours before sunset between August 5 to September 15, to avoid disturbing adult murrelets feeding chicks.

The Service requests that land managers implement within their harvest plan the guidance to "Maintain and enhance buffer habitat surrounding occupied habitat" from the "Recovery Plan for the Marbled Murrelet, September 1997" (page 140, section 3.1.1.3). To have the greatest benefits the buffer widths should be 300 to 600 feet and a portion of which can be a managed buffer. These buffers will mediate the effects of edge by helping to reduce the effects to interior forest conditions, reduce the loss of habitat to wind throw and reduce fragmentation levels, recruit future habitat, and help reduce predation at the nests. All three proposed harvest units in the harvest plan are immediately adjacent to a forest road causing a significant stand type break which is hard, if not impossible, to incorporate a complimentary buffer to murrelet habitat when present across this road. Primary consideration for buffering should be given to contiguously forested stands where there is a type break but not a hard break such as a road

prism causes.

Implementation of the May 18, 2011, harvest plan as described in the plan and on the May 5, 200 site visit should avoid disturbance take of marbled murrelets.

If you have any furtlier questions regarding this project please contact Kevin Maurice of my staff at (503) 231-6179.

Sincerely,

Paul Henson, Ph.D.
State Supervisor

MEMORANDUM

To: City Council Members

From: Julie Jones Manning, Mayor



Date: January 28, 2013

Subject: Confirmation of Appointments to Advisory Boards, Commissions, and Committees

As you know, at our last regular meeting I appointed the following persons to the advisory board, commission, or committee indicated for the term of office stated:

Arts and Culture Commission

Charles Creighton
Term expires June 30, 2015

Citizens Advisory Commission on Transit

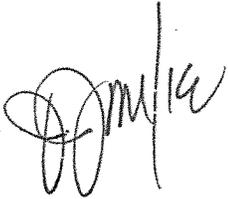
Jacob Kollen
Term expires June 30, 2013

Housing and Community Development Commission

Ed Fortmiller
Term expires June 30, 2014

I ask that you confirm these appointments at our next Council meeting, February 4, 2013.

MEMORANDUM

To: City Council Members
From: Julie Jones Manning, Mayor 
Date: January 28, 2013
Subject: Appointments to Advisory Boards, Commissions, and Committees

I am appointing the following persons to the advisory board, commission, or committee indicated for the term of office stated:

Bicycle and Pedestrian Advisory Commission

Thomas Bahde
Term expires June 30, 2013

Thomas is a commuting and recreational bicyclist and frequent pedestrian. He has worked with bicycle-advocacy efforts and teaches courses at Oregon State University regarding urban history and public space, bicycle history, and contemporary issues related to bicycle cultures and policies.

Housing and Community Development Commission

Kara Brausen
Term expires June 30, 2015

Kara received assistance through the City's First Time Home Buyer program in 2009. She believes serving on the Commission would give her an opportunity to "repay" the community and the program from which she benefited.

Dave Henderer
Term expires June 30, 2014

Dave owns a design/build construction company and is interested in serving on the Commission. He is a lifelong resident of the Corvallis area and values our quality of life.

Kenny Lowe
Term expires June 30, 2014

Kenny seeks an opportunity to better serve our community.

I will ask for confirmation of these appointments at our next Council meeting, February 19, 2013.

MEMORANDUM

From: Ken Gibb, Community Development Director 
To: Mayor and City Council
Date: January 29, 2013
Re: Scheduling a Public Hearing for an Appeal of the Asian and Pacific Cultural Center Historic Preservation Permit (HPP12-00019)

On November 13, 2012, the Historic Resources Commission denied a Historic Preservation Permit application (HPP12-00019) regarding the new construction of the Asian & Pacific Cultural Center. On November 21, the applicant submitted an appeal of the decision to the City Recorder and Planning Division staff. The applicant also requested additional time to prepare additional materials.

Staff request the City Council schedule a public hearing for February 19, 2013, to consider the subject appeal.

**HUMAN SERVICES COMMITTEE
MINUTES
January 22, 2013**

Present

Councilor Mike Beilstein, Chair
Councilor Penny York
Councilor Bruce Sorte

Staff

Jim Patterson, City Manager
Ken Gibb, Community Development Director
Marci Laurent, Community Development Mgt Ass't
Carla Holzworth, City Manager's Office

Visitors

Jennifer Moore, United Way
Stewart Wershow, Community Policing Forum

SUMMARY OF DISCUSSION

| <u>Agenda Item</u> | <u>Information Only</u> | <u>Held for Further Review</u> | <u>Recommendations</u> |
|---|-------------------------|--------------------------------|---|
| I. Fiscal Year 2013-2014 Social Services Policy Review, Funding Priorities, and Allocation Calendar | | | Retain social service priorities as emergency and transitional, and approve the proposed calendar with the 2012 date correction. Adopt policy revisions as discussed accept staff changes with the following two exceptions: * Retain the word "stable" in 6.05.040a * Add the words "mental and physical" to 6.05.050a (8) to read "...acute mental and physical health care..." |
| II. Other Business | | | |

Chair Beilstein called the meeting to order at 2:02 pm.

CONTENT OF DISCUSSION

I. Fiscal Year 2013-2014 Social Services Policy Review, Funding Priorities, and Allocation Calendar (Attachment)

Chair Beilstein noted the social service process is reviewed annually. He supports re-affirming funding priorities as emergency and transitional services. Councilors York and Sorte agreed.

Chair Beilstein said he agrees with the allocations process calendar as recommended by staff, but noted the year 2012 in the table header should be 2013; staff will correct the error. Mr. Gibb said the proposed calendar is an updated version of what was distributed in the January 8, 2013 Human Services Committee packet. It assumes

Council will make a decision at their February 4 meeting, with request for proposal packets being available to agencies on February 11.

The Committee unanimously recommends that Council retain social service priorities as emergency and transitional, and approve the proposed calendar with the 2012 date correction.

Chair Beilstein said staff's suggested policy amendments are located in the January 8, 2013 Human Services Committee meeting packet. He said in the absence of proposed changes from Councilors York and Sorte, he will support the suggested revisions.

Councilor Sorte said due to the water main break on Saturday, he was not able to work on proposed policy revisions as he had planned. He said he was initially concerned about whether declining Community Development Block Grant (CDBG) dollars were the result of funding being diverted for another purpose. Discussions with Mr. Gibb revealed that while the dollar amount has declined, the percentages have not changed. Councilor Sorte estimated that \$500,000 in social service funding could be obtained if every Corvallis household gave up one cup of coffee at Starbucks each month. He said he believes the annual allocation process is fair, but he expressed concern about having a contractor (United Way) in between the agencies and the City, which adds an extra step to the process. Councilor Sorte noted the Mayor usually appoints those who work with staff to make recommendations.

Councilor Sorte said he supports establishing a "not to exceed" reduction in funding, perhaps no more than 10%. He also would like Council to discuss establishing a funding floor, perhaps 1% of the General Fund budget, with allocation based on the number of households or taxpayers. He opined Corvallis' allocation seems reasonable compared with other communities.

In response to Councilor York's inquiry, Councilor Sorte said his 1.4% calculation of the Fiscal Year 2012-13 social services funding level was based on last year's General Fund budget. In response to Councilor Sorte's request for confirmation of that estimate, Mr. Patterson said it may be a little high, but he believes it is close.

Councilor York said she has experience working for non-profits and agencies certainly want stable funding. She believes social services are important and she appreciates the work done by United Way, but she does not support establishing a floor amount. Councilor York said it is important to consider the City's other expenses and its revenues. She expressed confidence some level of social service funding would be included in the budget and she agreed with staff's proposed policy language in 6.05.040 Funding Source.

In response to Chair Beilstein's inquiry, Councilor Sorte said his 1.4% estimate does not include CDBG funds. He commented that Councilors have mentioned that establishment of a fixed funding amount could tie Council's hands, but he believes it may actually provide more flexibility. Councilor Sorte said social services agencies approaching Council individually for funding is not fair to other agencies. Chair Beilstein said the addition of 6.05.040b was to discourage such individual requests.

Chair Beilstein said he is sympathetic to Councilor Sorte's point about minimal funding and he supports having some level of funding for social services, but he is not sure he supports establishing a floor. Chair Beilstein recognized that providing social services is not a City function, but the City pays others to provide those services because they are currently deemed important. However, it could eventually be decided that money is not available to fund non-City services.

City Manager Patterson noted Council's consideration of new revenue sources which do not compromise the social service budget provides an opportunity to communicate that the City values social services.

Chair Beilstein said in the absence of specific language modifications from the Councilors York and Sorte, he supports staff's proposed policy changes. In response to Councilor Sorte's inquiry, Chair Beilstein said he does not support establishing a maximum reduction.

Councilor Sorte said he would like to retain the word "stable" in 6.05.040a rather than removing it as recommended by staff; Councilor York and Chair Beilstein agreed. The Committee then reviewed each of staff's recommended changes.

The Committee unanimously recommends that Council adopt policy revisions as discussed accept staff changes with the following two exceptions:

1. Retain the word "stable" in 6.05.040a
2. Add the words "mental and physical" to 6.05.050a (8) to read "...*acute mental and physical health care*..."

Councilor Sorte said he will provide examples of base level funding at the February 4 City Council meeting.

Mr. Gibb noted discussion at the previous Human Services Committee meeting about the ordinance that was in place in the mid-1970s. The ordinance set funding at \$100,000 per year with a 6% maximum annual increase and a \$150,000 ceiling. The increase was tied to federal revenue sharing dollars that were available at that time. The ordinance became void when the revenue sharing dollars went away, but it is still

on the books. Mr. Gibb said he discussed the matter with the City Attorneys' Office and it would be good practice to remove the ordinance during the next round of Municipal Code updates. Chair Beilstein thanked staff for their work.

In response to Chair Beilstein's inquiry, Ms. Moore said the allocation requests only represent emergency and transitional needs. They are not representative of entire community needs.

In response to Mr. Patterson's inquiry, Ms. Moore said the drop in total funding requests relates to agencies knowing less money would be available. She expects requests will be about the same as last year.

Mr. Gibb said due to the City's levy, there is an established social services funding floor of \$106,000 for the current year. However, the levy will expire next year unless it is renewed.

In response to Councilor York's observation about differing levels of sophistication in how agencies request funds, Ms. Moore agreed there are a variety of ways to determine funding needs and the current process works well to sort those out.

Chair Beilstein noted Councilor York has been assigned as the Council liaison to this year's Allocations Committee.

II. Other Business

The meeting adjourned at 2:50 p.m.

The next Human Services Committee meeting is scheduled for 2:00 pm Tuesday, February 5, 2013 in the Madison Avenue Meeting Room.

Respectfully submitted,

Mike Beilstein, Chair

MEMORANDUM

DATE: January 16, 2013
TO: Human Services Committee
FROM: Ken Gibb, Director, Community Development Department *Ken Gibb*
SUBJECT: Social Service Policy and Funding Priorities Review

I. Background

At the January 8th meeting, the Human Services Committee continued discussion of the review of the Social Service priorities and policy and funding calendar for FY 13-14. At this meeting, HSC members requested additional information regarding the City's history of funding over the previous five (5) year period.

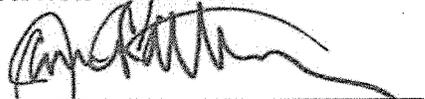
II. Discussion

Attachment A provides a five-year overview of United Way funding (City and United Way funds) including amounts requested, amounts awarded and the agencies funded. Attachment B provides a five-year history of the Community Development Block Grant (CDBG) funding for human services programs (shaded in grey). Also provided is a profile of other social service related CDBG funded projects, primarily housing. Attachment C includes United Way's updated draft Grants Program calendar. This timeline assumes Council action on the policy and priorities at the February 5th City Council meeting.

III. Action/Recommendation Requested

Accept public written and oral input from social service organization representatives regarding the City's social service policy; recommend to the City Council the 1) allocations calendar 2) funding priorities for FY 13-14 and 3) other changes to the policy that the Human Services Committee believe are appropriate.

Review and Concur


James A. Patterson, City Manager

Enclosures:

- A. 5-year Funding History via United Way
- B. 5-year Funding History CDBG
- C. Allocations Calendar

United Way of
Benton & Lincoln Counties

PO Box 2499 (97339)
2330 NW Professional Dr, Ste 101
Corvallis, OR 97330
Phone: (541) 757-7717
Fax: (541) 758-1443
Email: office@unitedwayblc.org

914 SW Coast Hwy Suite 104
Newport, OR 97365
Phone: (541) 265-5812



Memo

DATE: January 14, 2013
TO: Human Service Committee, City of Corvallis
FROM: Jennifer Moore, United Way

Summary of Social Service Fund trending

Per our administrative contract, United Way maintains records of previously completed Social Service Fund allocation cycles.

At the HSC meeting 1/8/13, a request was made to see a summary of previous year awards compared to amounts requested, as well as a summary of funded programs.

Attached are two reports:

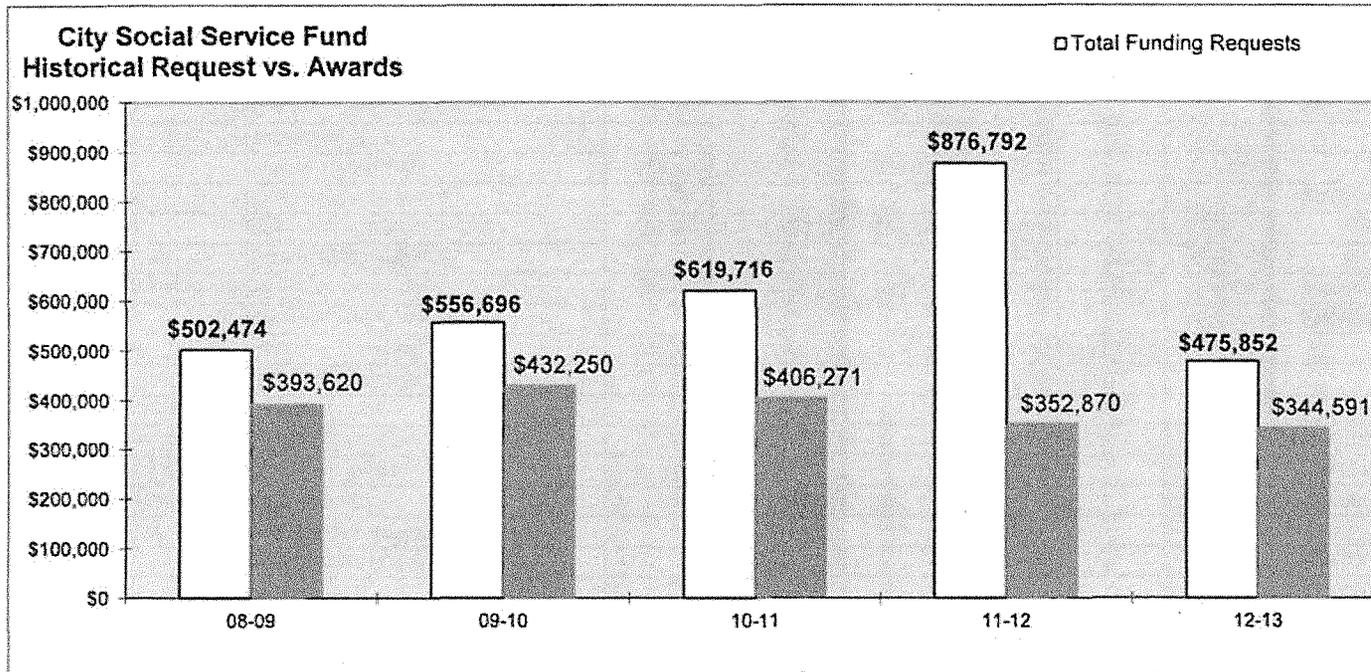
- Five-year trend showing the total amount of requests and total awards made
- Five year detail showing the agency, program, amount requested, and award (if any)

****Note:** Should an agency have received funding in a prior year, interim and/or year-end reports may be reviewed to determine capacity to provide the program. However, each funding cycle is independent of any previous cycle, and any prior year award amounts are not reviewed or considered when conducting allocation meeting(s).

City of Corvallis Social Service Fund Allocations

2012

| | 08-09 | 09-10 | 10-11 | 11-12 | 12-13 |
|------------------------------------|------------------|------------------|------------------|------------------|------------------|
| Total Funding Requests | \$502,474 | \$556,696 | \$619,716 | \$876,792 | \$475,852 |
| Awards | \$373,939 | \$410,638 | \$385,957 | \$335,227 | \$327,361 |
| United Way Administrative Contract | \$19,681 | \$21,612 | \$20,314 | \$17,644 | \$17,230 |
| TOTAL CITY SSF FUNDING | \$393,620 | \$432,250 | \$406,271 | \$352,870 | \$344,591 |



| | | 08-09 | | 09-10 2009 cycle | | 10-11 2010 cycle | | 11-12 2011 cycle | | 12-13 2012 cycle | |
|---|-----------------------------------|----------|----------|---------------------|----------|---------------------|----------|---------------------|----------|---------------------|----------|
| Agency | Program | Request | Award | Request | Award | Request | Award | Request | Award | Request | Award |
| ABC House | Child Abuse Assessment | | | | | | | \$36,810 | \$32,766 | \$40,000 | \$26,391 |
| Benton Furniture Share | Program Sustainability | \$9,500 | \$2,000 | \$9,500 | \$4,000 | \$21,500 | \$13,500 | \$10,000 | \$1,942 | \$17,000 | \$10,000 |
| Benton Furniture Share | Beds for Kids | | | | | | | \$10,000 | \$3,883 | | |
| Benton Furniture Share | FEEDING our FUTURE | | | | | | | \$6,000 | \$0 | | |
| Benton Habitat for Humanity | Transitional Job Training Program | | | | | | | | | | |
| Boys and Girls Club of Corvallis | ABC's to PhD's | | | | | | | \$20,000 | \$3,883 | | |
| Boys and Girls Club of Corvallis | Dental and Wellness Clinic | \$10,000 | \$8,000 | | | | | \$35,000 | \$16,426 | | |
| Boys and Girls Club of Corvallis | Licensed Child Care | | | | | | | \$100,000 | \$0 | | |
| Boys and Girls Club of Corvallis | STARS program | | | | | | | | | | |
| Boys and Girls Club of Corvallis | Clubhouse Scholarships | | | | | | | | | \$16,470 | \$16,470 |
| CASA Voices for Children | Volunteer Training/Supervision | \$20,000 | \$16,000 | \$20,000 | \$12,000 | \$15,000 | \$10,000 | | | \$15,000 | \$15,000 |
| CASA Voices for Children | Court Advocacy Training | | | | | | | \$12,000 | \$11,553 | | |
| Center Against Rape & Domestic Violence | Shelter/Advocacy Prog | \$45,000 | \$40,000 | \$50,000 | \$42,000 | \$50,000 | \$38,000 | \$50,000 | \$22,766 | \$25,000 | \$15,000 |
| Community Outreach Inc. | Multiple Program Listings | | | | | 96000 | 60000 | | | | |
| Community Outreach, Inc. | Crisis, Info & Referral | \$35,000 | \$30,000 | \$36,750 | \$35,000 | | | | | | |
| Community Outreach, Inc. | Emergency Food Banks | | | | | | | \$19,000 | \$3,106 | | |
| Community Outreach, Inc. | Emergency Housing | \$28,000 | \$26,000 | \$29,400 | \$29,400 | | | | | | |
| Community Outreach, Inc. | Emergency Shelter | | | | | | | | | | |
| Community Outreach, Inc. | Homeless Emergency Services | \$25,000 | \$20,000 | \$26,250 | \$24,000 | | | \$54,000 | \$25,000 | | |
| Community Outreach, Inc. | Integrated Housing | | | | | | | \$60,000 | \$10,000 | | |
| Community Outreach, Inc. | Integrated Shelter Services | | | | | | | | | \$52,000 | \$52,000 |
| Community Outreach, Inc. | Day Services | | | | | | | | | \$32,000 | \$32,000 |
| Community Outreach, Inc. | Medical Clinics | \$17,000 | \$16,000 | \$17,850 | \$16,000 | \$19,500 | \$15,000 | | | | |
| Community Outreach, Inc. | Mental Health Treatment | \$20,000 | \$19,000 | \$21,000 | \$18,000 | \$23,000 | \$17,957 | | | | |
| Community Outreach, Inc. | Health Services | | | | | | | \$44,500 | \$37,766 | \$40,000 | \$40,000 |
| Community Outreach, Inc. | Permanent Supportive Hsng | \$20,000 | \$19,000 | \$36,000 | \$36,000 | \$36,000 | \$27,000 | \$36,000 | \$7,766 | | |
| Community Outreach, Inc. | Transitional Housing | \$40,000 | \$38,000 | \$42,000 | \$39,000 | \$44,000 | \$33,000 | | | | |
| Community Services Consortium (CSC) | Emergency Housing | \$14,468 | \$14,439 | \$14,646 | \$13,500 | \$14,916 | \$8,000 | \$15,106 | \$8,550 | \$15,016 | \$0 |
| Community Services Consortium (CSC) | Linn-Benton Food Share | \$38,000 | \$36,750 | \$36,500 | \$35,000 | \$36,000 | \$32,000 | \$36,000 | \$35,106 | \$36,000 | \$36,000 |
| Community Services Consortium (CSC) | RSVP - HandsOn Linn-Benton | | | | | | | \$5,000 | \$0 | | |
| Community Services Consortium (CSC) | RSVP - SASSI | \$4,000 | \$0 | \$4,000 | \$1,000 | \$2,000 | \$0 | | | | |
| Community Services Consortium (CSC) | RSVP - SHIBA | | | \$6,000 | \$5,000 | \$6,000 | \$3,000 | \$5,000 | \$1,747 | \$5,000 | \$5,000 |
| Community Services Consortium (CSC) | RSVP - Sr Peer Counseling | \$2,500 | \$1,250 | \$2,000 | \$1,500 | \$2,000 | \$0 | | | | |
| Comerstone Associates | Community Access | | | | | \$10,000 | \$0 | \$58,542 | \$0 | | |
| Corvallis Community Children's Center | Low-Income Subsidy | \$28,506 | \$5,000 | | | | | | | | |
| Corvallis Community Children's Center | Tuition Scholarship | | | \$10,800 | \$3,000 | \$28,800 | \$10,000 | \$36,000 | \$10,213 | \$45,000 | \$20,000 |
| Corvallis Daytime Drop-In Center | Daytime Drop-In Center | \$10,000 | \$7,000 | \$2,000 | \$2,000 | | | | | | |
| Corvallis Daytime Drop-In Center | Counseling Services | | | | | | | \$10,000 | \$8,883 | \$10,000 | \$5,000 |

| | | 08-09 | | 09-10 2009 cycle | | 10-11 2010 cycle | | 11-12 2011 cycle | | 12-13 2012 cycle | |
|---|---------------------------------------|-----------|-------------|---------------------|-----------|---------------------|-----------|---------------------|-----------|---------------------|-----------|
| Agency | Program | Request | Award | Request | Award | Request | Award | Request | Award | Request | Award |
| Corvallis Daytime Drop-In Center | Mental Health Outreach Worker | | | | | \$15,000 | \$0 | | | | |
| Corvallis Daytime Drop-In Center | Project Action | | | \$23,000 | \$4,738 | | | | | | |
| Corvallis Environmental Center | SAGE Garden | | | \$13,000 | \$6,500 | \$18,000 | \$10,000 | \$18,000 | \$3,943 | \$10,000 | \$5,000 |
| Corvallis Environmental Center | To Grow Boxes | | | \$3,000 | \$0 | \$4,000 | | \$2,500 | \$0 | | |
| Corvallis Homeless Shelter Coalition | Men's Homeless Shelter Services | | | | | \$19,000 | \$13,500 | | | | |
| Corvallis Homeless Shelter Coalition | Outreach Worker | | | | | | | \$15,000 | \$15,000 | | |
| Dial-A-Bus | Transportation | \$3,000 | \$0 | | | \$4,000 | \$0 | \$12,334 | \$0 | \$7,125 | \$0 |
| Girls on the Run | Core program - GOTR | | | | | | | | | \$3,000 | \$0 |
| Heartland Humane Society | Emergency/Safe Housing Program | | | | | \$6,000 | \$3,000 | | | \$3,000 | \$3,000 |
| Home Life, Inc. | Transition Program | | | | | | | | | | |
| Home Life, Inc. | Transportation Program | | | | | | | | | | |
| Jackson St Youth Shelter | Emergency Shelter | \$30,000 | \$25,000.00 | \$25,000 | \$20,000 | \$25,000 | \$19,000 | \$25,000 | \$25,000 | \$25,000 | \$25,000 |
| Jackson St Youth Shelter | Transitional Living | \$30,000 | \$0.00 | \$8,000 | \$6,000 | \$8,000 | \$6,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 |
| Linn-Benton Mediation Services | Conflict Resolution | \$5,000 | \$0.00 | | | | | | | | |
| Linn-Benton Mediation Services | Services (Parenting program) | | | \$25,000 | \$0 | | | | | | |
| Linn-Benton Mediation Services | Supervised Visitation | \$3,000 | \$0.00 | | | | | | | | |
| Linn-Benton Mediation Services | | | | | | | | | | | |
| Old Mill Center for Children & Families | Crisis Outreach & Transition Services | \$12,000 | \$11,000.00 | \$24,000 | \$13,000 | \$30,000 | \$15,000 | \$32,500 | \$0 | | |
| Old Mill Center for Children & Families | Divorce | | | | | | | | | | |
| Old Mill Center for Children & Families | Rally Around Families Together | \$6,000 | \$3,000.00 | \$10,000 | \$7,500 | \$25,000 | \$19,000 | \$32,000 | \$0 | | |
| Old Mill Center for Children & Families | Child Safe Sex Abuse Treatment | \$6,000 | \$3,000.00 | \$6,000 | \$4,500 | \$14,000 | \$7,000 | \$27,500 | \$13,500 | \$27,241 | \$0 |
| Oregon Cascades West Sr Meals | Senior Meals | | | \$8,000 | \$5,000 | \$8,000 | \$2,500 | | | | |
| Parent Enhancement Program | Parent Enhancement Prog | \$15,000 | \$11,000.00 | \$15,000 | \$10,000 | \$15,000 | \$8,000 | \$25,000 | \$17,766 | \$25,000 | \$0 |
| Presbyterian Child Care Center | Tuition Assistance Program | \$7,500 | \$6,500.00 | \$10,000 | \$3,000 | \$8,000 | \$6,000 | \$8,000 | \$0 | \$7,000 | \$4,000 |
| Vina Moses Center | FISH Emergency Services | \$8,000 | \$7,000.00 | \$10,000 | \$8,000 | \$6,000 | \$4,500 | | | \$4,000 | \$4,000 |
| Vina Moses Center | Clothing/Household | \$10,000 | \$9,000.00 | | | \$10,000 | \$5,000 | \$6,000 | \$5,330 | \$5,000 | \$2,500 |
| Vina Moses Center | Family Shopping | | | | | | | \$6,000 | \$5,330 | | |
| Vina Moses Center | Vina Moses Center | | | \$12,000 | \$6,000 | | | | | | |
| We Care | short-term financial assistance | | | | | | | | | \$3,000 | \$3,000 |
| TOTAL REQUESTS | | \$502,474 | \$373,939 | \$556,696 | \$410,638 | \$619,716 | \$385,957 | \$876,792 | \$335,225 | \$475,852 | \$327,361 |
| UNITED WAY ADMINISTRATIVE FEE | | | \$19,681.00 | | \$21,612 | | \$20,314 | | \$17,644 | | \$17,230 |
| TOTAL CITY FUNDING | | | \$393,620 | | \$432,250 | | \$406,271 | | \$352,869 | | \$344,591 |

Corvallis CDBG and HOME Funding Allocations, FY 2008-09 through FY 2012-13

| Agency | Source/type of allocation | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 | FY 12-13 | Purpose | Population(s) Served |
|--------------------------------------|---------------------------|-----------------------------|------------------|------------------|------------------|------------------|---|--|
| | | Human Svcs Requested | \$175,000 | \$165,000 | \$200,000 | \$210,000 | \$182,000 | |
| | | Human Svcs Awarded | \$80,000 | \$80,000 | \$80,000 | \$80,000 | \$69,000 | |
| Boys & Girls Club of Corvallis | CDBG Human Svcs | | \$9,000 | \$5,000 | \$7,000 | | Lincoln School afternoon programs | Low/very low/extremely low income families |
| Community Outreach | CDBG Human Svcs | 16,500 | 17,000 | 16,500 | 17,000 | 20,000 | Shelter family services; Benton Plaza supportive housing; counseling | Homeless families & individuals; elderly/ disabled/at-risk individuals; ext low income |
| Corvallis Daytime Drop-in Center | CDBG Human Svcs | 12,000 | 7,000 | 8,000 | 7,000 | 8,000 | Day-use location for I&R; some food provision, misc. assistance | Homeless/extremely low income people |
| Corvallis Homeless Shelter Coalition | CDBG Human Svcs | | | | 6,000 | 7,000 | Cold weather men's shelter | Homeless men |
| Furniture Share | CDBG Human Svcs | 5,000 | 6,500 | 7,000 | 9,000 | 6,000 | Pick-up and delivery of used/donated furniture | Very low/extremely low income people; disabled; survivors of domestic violence |
| Grace Center | CDBG Human Svcs | 8,000 | | 9,000 | 5,000 | 5,000 | Day services/activities/physical therapy | Low/very low/extremely low income elderly and disabled adults |
| Jackson Street Youth Shelter | CDBG Human Svcs | 7,000 | 7,000 | 5,500 | | | Shelter and related services | Homeless and runaway youths |
| Old Mill Center | CDBG Human Svcs | 5,000 | 7,500 | 5,000 | 6,000 | 5,000 | Case management/services to families with young children | Low/very low/extremely low income families |
| Parent Enhancement Program | CDBG Human Svcs | 9,000 | 9,000 | 8,500 | 8,000 | 8,000 | Pregnancy & parenting education/outreach/services | Low/very low/extremely low income women/couples/families |
| South Corvallis Food Bank | CDBG Human Svcs | 11,000 | 11,000 | 10,500 | 10,000 | 10,000 | Provision of food boxes to residents of South Corvallis | Low/very low/extremely low income individuals and families |
| Willamette Neighborhood Housing | CDBG Human Svcs | 6,500 | 6,000 | 5,000 | 5,000 | | Financial literacy education | Low/very low/extremely low income individuals and families |
| Home Life | CDBG Capital | 82,000 | | | | | Rehabilitation of 12-unit Mumford House group home | Adults with severe developmental disabilities |
| WNHS/LBCC | CDBG Microbusiness | 20,000 | 20,000 | 25,000 | 25,000 | 25,000 | Microbusiness education and technical assistance | Low/very low/extremely low income individuals and families |
| Samaritan Village | CDBG Capital | 122,000 | | 100,000 | | | Install lift and generator; replace roof in 82-unit apartment complex | Low/very low/extremely low income elderly and disabled adults |
| Benton Habitat for Humanity | HOME Capital | | 158,000 | | | | Land acquisition/construction funding for 2 owner units | Very low/extremely low income families |
| WNHS | HOME Capital | | 235,000 | | | | Move/rehabilitate 2 single family homes | Very low/extremely low income families |
| Corvallis Homeless Shelter Coalition | HOME Capital | | | 250,000 | | | 7 units of permanent supportive housing | Homeless/chronically homeless individuals |
| WNHS | CDBG & HOME Capital | | | | 1,660,000 | | Alexander/Seavey 48 units of affordable family rental housing | Very low/extremely low income families; ten units with preference for survivors of domestic violence |
| Arc of Benton County | CDBG Capital | | | | 30,000 | | Rehabilitation of a 5-room group home | Adults with severe developmental disabilities |
| CARDV | CDBG Capital | | | | 150,000 | | Land acquisition at Alexander Court for DV Advocacy Center | Survivors of domestic violence |
| WNHS | HOME Capital | | | | | 800,000 | 5-unit Seavey Meadows Community Land Trust home ownership | Low income families |
| WNHS | CDBG & HOME Capital | | | | | 533,000 | Rehabilitation of 50-unit Lancaster Bridge family rental project | Low income families |
| Home Life | HOME Capital | | | | | 250,000 | Construction of four-plex as supportive housing for 8 clients | Adults with severe developmental disabilities |
| CARDV | CDBG Capital | | | | | 50,000 | Rehabilitation of DV services facility | Survivors of domestic violence |

* Multiple years of allocations; report year is year project completed or construction anticipated

MEMORANDUM

DATE: January 28, 2013

TO: City Council

FROM: Ken Gibb, Director, Community Development Department



SUBJECT: Social Service Policy Draft Revisions

This memorandum is meant to clarify the edits made by the Human Services Committee to the policy revisions suggested by staff:

- Policy Section 6.05.040 a.: Put the word “stable” back into this section.
- Policy Section 6.050.050 a.8): Add the words “mental and physical” following “acute”.

Attachment:
HSC Proposed Revisions to the Social Service Policy

CITY OF CORVALLIS

COUNCIL POLICY MANUAL

POLICY AREA 6 - COMMUNITY DEVELOPMENT

CP 00-6.05 Social Service Funding Policy

Adopted January 18, 2000

Affirmed February 5, 2001

Revised February 19, 2002

Affirmed April 7, 2003

Affirmed February 2, 2004

Affirmed February 22, 2005

Revised December 18, 2006

Revised January 22, 2008

Revised November 16, 2009

Revised _____, 2012

6.05.010 Purpose

To formally establish a policy for the setting of social service priorities, specify the annual allocation amount and allocation process for funding.

6.05.020 Goal

That all residents have resources to provide for basic needs.

6.05.030 Mission

The social service allocation process is intended to provide support to local social service agencies which assist in improving the mental or physical condition of the people in the City.

6.05.040 Funding Source

- a. To provide an annual stable funding source for social service agencies receiving financial assistance from the City (direct or indirect). *The City Manager shall recommend a funding amount in the City's Proposed Budget.* ~~the following method which results in the largest amount shall~~

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~~be used:~~

~~1) 0.01181 mills of projected assessed value shall be allocated for this purpose; or~~

~~2) The prior year allocation shall be increased by the December Portland Consumer's Price Index (CPI). The FY 99-00 allocation \$370,720 is used as the base.~~

b. It is strongly encouraged that all social service funding be requested and distributed through the annual social service program process.

6.05.050 Definitions

The following definitions are written to provide a basis for common understanding in discussing social service needs of the community:

a. *Basic human needs* - The following are some of the basic necessities of life which, when absent or threatened, would be considered to constitute an emergency:

- | | | |
|--------------------------|---|--|
| 1) food | 2) water | 3) shelter |
| 4) warmth | 5) clothing | 6) safety and freedom from fear and violence |
| 7) access to information | 8) acute <u>mental and physical</u> health care | 9) Transportation |

b. *Emergency services* - Programs or services that provide immediate or short-term assistance to meet any of the above basic human needs when absent.

c. *Transitional services* - Programs or services that provide people with a short or defined period of assistance to sustain their basic human needs in the transition to self-sufficiency.

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- d. *Long-term services* - Programs or services that provide permanent or on-going services to citizens.
- e. *Preventive services* - Programs or services that seek to prevent citizens from needing emergency or transitional assistance.
- f. *Social services* - Intended to describe a program(s) designed to improve the mental or physical condition of the people in the community. Such programs may include, but are not limited to: mental and physical health, child care, drug and alcohol abuse, vocational rehabilitation, aging, and others as permitted.

~~Since 1992, the City Council has agreed not to fund Long-term or Preventive Services.~~

6.05.060 Setting Priorities

Annually, Council will review the needs of the community and set priorities for funding, including using broad needs assessment tools that are available. Changes in priorities shall be made by amendments to this Council Policy. The current funding priorities are Emergency and Transitional services.

6.05.070 Eligibility

Organizations applying for City social service funding must be recognized as a non-profit by the Federal Government with a 501(c)(3) tax-exempt status certification or be a governmental or quasi-governmental agency.

6.05.080 Annual Process

- a. Council shall evaluate and set the annual social service priorities.
- b. Council shall review and approve the annual calendar for allocations.
- c. The availability of funds shall be advertised.
- d. Agency proposals shall be received.
- e. Agency presentations shall be scheduled.
- f. A Committee of community members knowledgeable in social service

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needs shall be formed. They shall:

- 1) meet to review agency proposals and funding requests; and
- 2) make recommendations to Council.

- g. The Human Services Committee will review the Allocations Social Services Committee recommendations and forward an allocation recommendation for full Council review and approval.
- h. Council shall appropriate the funds for the program in the annual budget.
- i. Contracts shall be executed with service providers.
- j. Funds shall be distributed to service providers.
- k. Contracts shall be monitored and programs of the social service providers evaluated.
- l. Semi-Annual reports on the work performed by service providers shall be submitted.
- m. Council shall review and approve the semi-annual reports of service providers.

6.05.090 Administration of Social Services

- a. The City may chose to issue Request for Proposals on a triennial basis for administration of its social service program and funds. The successful administrator must demonstrate knowledge of the social service needs of the community and advise Council. A contract between the City and the Administrator will be executed and renewed on an annual basis.
- b. Should the City decide not to utilize the services of an administrator, this provision of the Policy shall be invalidated.

6.05.100 Reporting Requirements Sanctions

- a. Service providers are required to provide regular reports to the Administrator and City. Reports shall include a progress narrative and financial records. Additional reporting may be requested at the discretion of the City. ~~who report late are subject to the following sanctions~~

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| | |
|---|--|
| <p>1st-Time Semi- Annual Report is Late</p> | <ol style="list-style-type: none"> 1. Automatic letter to Agency Director to Agency Director with a copy to the President outlining ramifications if late again. 2. Phone call follow-up. 3. If report is submitted within a 20-day grace period, then there is no monetary penalty. 4. If report not submitted within 20-day grace period, the agency loses 50% of that month's allocation amount. 5. For every additional 30 days the report is not received, the agency will lose another 50% of one month's allocation. |
| <p>2nd-Time Semi- Annual Report is Late</p> | <ol style="list-style-type: none"> 1. Letter written directly to the President of the Agency's Board of Directors with a copy to the Agency Director. 2. If report is submitted within a 20-day grace period, then there is no monetary penalty. 3. If report not submitted within 20-day grace period, the agency loses that month's annual allocation amount. 4. For every additional 30 days the report is not received, the agency will lose another month's allocation. |
| <p>3rd-Time Semi- Annual Report is Late (in consecutive years)</p> | <ol style="list-style-type: none"> 1. Suspension from the next year's allocation process. |

- b. ~~In addition to the above sanctions, Late or incomplete reporting will be reported to the Allocations Committee; and the Committee will be encouraged to weigh an agency's accountability with regard to reporting when deciding about future allocations to that agency's *program(s)*.~~

6.05.110 Return of Funds

- a. In the event a social service provider cannot or chooses not to perform the services purchased by the City, ~~either due to a change in circumstances or to monetary sanctions applied as stated above~~, the following should occur:
- 1) The City or its Administrator will reconvene the Allocations Committee to evaluate use of the funds. The Committee will make a recommendation to Council. Council shall review the recommendation for approval.
 - 2) The unused funds will be deducted from the monthly allocation to the

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service provider. Any funds distributed and not used for the services purchased shall be reimbursed by the provider to the City.

3) Unused or returned funds may be, in accordance with Council direction, carried over to the next fiscal year for re-allocation.

6.05.120 Review and Update

Funding priorities shall be reviewed annually prior to the commencement of the social service allocation process. A full review of the social service funding policy shall be conducted ~~prior to the 2010 allocation process and every three years thereafter.~~ Council, upon request or significant change in the general and economic well-being and prosperity of the community, may decide to review this policy sooner.

**ADMINISTRATIVE SERVICES COMMITTEE
MINUTES
JANUARY 23, 2013**

Present

Councilor Biff Traber, Chair
Councilor Joel Hirsch
Councilor Hal Brauner

Staff

Jim Patterson, City Manager
Nancy Brewer, Finance Director
Douglas Baily, AIC Fire Chief
Jon Sassaman, Police Chief
Steve Deghetto, Assistant Parks and Recreation Director
Tom Nelson, Economic Development Manager
James Mellein, Aquatic Center Supervisor

Visitors

Corey Perlstein, Majestic Theatre Management
Bob Conder, Corvallis Rural Fire Protection District

| Agenda Item | Information Only | Held for Further Review | Recommendations |
|---|------------------|-------------------------|---|
| I. Majestic Theatre Management Loan Extension | | | Continue the annual review of the loan and incorporate the review as part of the Majestic Theatre Management annual report to the Human Services Committee |
| II. Public Safety Tax | | | Direct staff to create a public safety tax that restores the following services: Reopen Fire Station 5 including an ambulance, add 1 FTE Fire Department Training Lieutenant, add 1 FTE Fire Protection Officer, add 1 FTE School Resource Officer, and add 6 Police Officers. Charge a flat rate per meter with the one exception being where there is a single meter feeding multi-family units, that meter is charged at the rate of the number of units on the single family flat rate. Implement the Public Safety Tax effective July 1, 2013. |
| III. Possible Fund Closures | | | Close the Parks and Recreation Fund, the Fire and Rescue Fund, and the Library Fund, moving balances to the General Fund by means of resolutions to be read by the City Attorney. Change Corvallis Municipal Code Chapter 3.09.040 Urban Forestry Fee to be accounted for in the General Fund by means of an ordinance to be read by the City Attorney. |
| IV. Other Business | | | Set a liaison to the Majestic Theater Board, with appointment by the Mayor. |

Chair Traber called the meeting to order at 3:30 pm.

CONTENT OF DISCUSSION

I. Majestic Theatre Management Loan Extension (Attachment)

Mr. Deghetto reviewed the staff report and asked that the loan review be incorporated with Majestic Theatre Management's (MTM) annual report which will be presented to the Human Services Committee in April.

Mr. Perlstein said MTM's financials are trending well. They have surpassed their individual giving goal so far this year and are now trying to double it. Mr. Perlstein said MTM wants to pay off its loan as quickly as possible, hopefully within five to seven years.

In response to Councilor Hirsch's inquiry, Mr. Deghetto said MTM's loan does not relate to the facility's seismic upgrade.

Councilor Hirsch noted the City has a Council liaison to Visit Corvallis but there is no liaison to the MTM board. Mr. Perlstein welcomed the involvement. Chair Traber said it will be taken as an action item for Council to consider.

The Committee unanimously recommends Council continue the annual review of the loan and incorporate the review as part of the Majestic Theatre Management annual report to the Human Services Committee.

II. Public Safety Tax (Attachment)

Ms. Brewer reviewed the staff report, noting Police Chief Jon Sassaman and Acting Fire Chief Douglas Baily were also in attendance to answer questions. In response to Councilor Brauner's inquiry, Ms. Brewer said other Oregon cities either already have or are looking at a similar kind of tax on their utility bills, including Gresham and Jackson County. Ms. Brewer said Eugene's City Council is scheduled to take final action on a public safety tax in February and for many years the City of Newberg has had a nominal tax dedicated for vehicle replacements.

Ms. Brewer referenced earlier Committee discussions about taxpayer cost neutrality, noting such an approach would not produce enough revenue to fund public safety at the level being discussed. The Committee agreed.

Ms. Brewer emphasized the staff report only provides alternatives to consider and she is not making any recommendations. The data provided for rate structure scenarios are estimates at this point and can be refined upon request.

In response to Councilor Brauner's inquiry, Mr. Baily said the size of water meter does not necessarily correlate to the potential for a fire hazard, as many large facilities have sprinkler systems.

In response to Councilor Hirsch's inquiry, Ms. Brewer said she did not cost out a tax structure based on water usage, but that is possible to do if the Committee wishes. She cautioned that sometimes the amount of water used relates to irrigation.

In response to Councilor Brauner's inquiry, Ms. Brewer said the distribution of revenue based on 75% from single/multi-family residential and 25% from commercial/industrial 509J/Greek/City accounts is just an example. The distribution could be set up in any way Council chooses.

In response to Chair Traber's inquiry about the Transportation Maintenance Fee, Ms. Brewer said the allocation is weighted at 75% residential/25% commercial. The fee is based on trip generations and commercial entities tend to pay a higher monthly amount based on a greater number of trips.

FIRE DEPARTMENT:

Chair Traber noted the proposal to open Fire Station 5 (FS5) reflects having 9 full-time equivalent (FTE) employees to staff the facility. Mr. Bailey confirmed when FS5 was closed during the last round of budget reductions, 6 FTE were retained and moved to Station 3 on Circle Boulevard to provide ambulance services. Chair Traber said retaining ambulance service at Station 3 and opening FS5 as proposed is a combination of restoring service and adding a service enhancement. In response to his inquiry about what would happen if FS5 was reopened without an ambulance, Ms. Brewer said it would decrease service for medical calls. She added that for at least five years the Fire Department's strategic plan has called for adding an ambulance to the system. Ms. Brewer said having the additional ambulance is important.

Mr. Patterson commented that Fire Chief Emery has wanted to make the entire system right when FS5 is reopened. Councilor Brauner said doing so would constitute restoration of service and a service enhancement. Councilor Hirsch suggested using a term other than service enhancement, such as amelioration or remediation. He believes the City is fixing a deficit rather than adding something extra.

In response to Councilor Brauner's inquiry, Mr. Baily said the Training Lieutenant position was cut five years ago and the five Fire Protection Officer (FPO) positions were reduced to one Fire Marshal position during the 2002 budget cuts. Mr. Baily confirmed that Oregon State University pays part of the salary for one FPO to provide prevention services for dorms and Greek houses.

In response to Chair Traber's inquiry, Ms. Brewer confirmed the contracted .8 FTE FPO is included in the three current Prevention division staff.

In response to Councilor Brauner's inquiry, Ms. Brewer said the proposal reflects the cost of adding 1 FTE, but Chief Emery would like to add at least 2, and perhaps even 3 FTE.

POLICE DEPARTMENT:

In response to Chair Traber's inquiry, Chief Sassaman said there are 10 Oregon State Police (OSP) on the OSU campus and they are not included in Corvallis' sworn officers per thousand figure, as they do not respond to 911 calls off campus. Chair Traber said he believes Corvallis' officers per thousand figure should include those OSP officers on campus. Chief Sassaman noted the Eugene Police has a contract with the University of Oregon to provide law enforcement services. He said Eugene's sworn officers per thousand figure does not include those officers on the University of Oregon campus. Chief Sassaman said he believes the officers per thousand figures for the comparator cities do not include police on campus, so comparison with Corvallis is apples to apples.

In response to Councilor Brauner's inquiry, Chief Sassaman said Corvallis Police do not respond to incidents on campus unless OSP requests assistance. Corvallis Police and Oregon State Police (OSP) have a mutual aid agreement to assist each other when needed.

In response to Councilor Hirsch's inquiry, Chief Sassaman said when Oregon State University was seeking a contract for police on campus, Corvallis considered bidding on it, but did not due to issues of control and decision making. Ultimately, the cost, convenience, and synergy of having State law enforcement services serving a State agency has been beneficial for OSU. Chief Sassaman said he does not think it's likely Corvallis Police will be asked to provide services on campus in the future.

DISPATCH:

In response to Chair Traber's inquiry, Ms. Brewer said the current 911 budget is approximately \$2.3 million. Ten government agencies participate in the regional service and combined they pay about \$1.7 million in user fees. Of that amount, Corvallis pays about \$1 million.

In response to Councilor Brauner's inquiry, Chief Sassaman said Corvallis would bear the full cost of the proposed \$800,000 expense to increase staffing unless the user board agrees to a cost increase. Per the 1983 user agreement, all participating agencies must approve any changes in user fees.

In response to Councilor Hirsch's inquiry about the possibility of canceling the 911 agreement and drafting a new one, Chief Sassaman the City would have to consider a service district or some other mechanism to support 911. A financial feasibility study has been conducted and Chief Sassaman said he needs to work on next steps. If a service district is pursued and approved by voters, user groups would no longer have the ability to control fee increases.

In response to Councilor Brauner's inquiry, Chief Sassaman said the radio system changes are needed first and additional staffing could be phased in.

In response to Councilor Brauner's inquiry, Chief Sassaman said the Corvallis Collaboration's Neighborhood Livability Work Group recommended staffing the Corvallis Police Department consistent with like college communities. The Steering Committee sent the item back to the Work Group for more discussion because the recommendation was not specific enough.

In response to Chair Traber's inquiry, Ms. Brewer said the \$3.7m figure includes reopening FS5, 1 FTE Fire Training Lieutenant, 1 FTE Fire Protection Officer, 12 Police Officers, funding for 1 FTE School Resource Officer (SRO) with the expectation the School District would fund the other SRO, and 911 items. Ms. Brewer said she was not advocating for doing everything on the list. Rather, she wanted to provide all of the information as a place to start so Council could work from a menu of options.

Bob Conder with Corvallis Rural Fire Protection District (RFPD), said RFPD supports reopening FS5 and retaining the ambulance at FS3. He noted that if FS5 is reopened, the City could retain the RFPD's \$1.2m annual contribution to the Fire Fund. Mr. Conder said the RFPD board is concerned about risk in the Oak Creek area and as such, they have been discussing decreasing some of their contribution. Mr. Conder emphasized the RFPD does not wish to do anything that is detrimental to the Fire Department.

Mr. Deghetto said Fire Protection staff have provided valuable assistance to Parks and Recreation on vision clearance, weed abatement, resource protection, and controlled fires at the urban interface.

NEXT STEPS:

The Committee reviewed, discussed, and agreed on each of the five Next Steps components outlined on page 9 of the staff report as follows:

1. Desired Services to be Added to the Budget Funded by the Public Safety Tax

* **Fire Station 5: Consensus to reopen FS5, including an ambulance.**

Councilor Brauner said he would like to avoid a public safety levy in the future by using this tax as a funding mechanism. Future levies could target other services. He views the minimum service level as restoring not only what was cut last year, but also restoring what has been cut over the last decade. Councilor Brauner noted the City's level of growth in the past ten years.

* **Fire Department Training Lieutenant: Consensus to add 1 FTE.**

* **Fire Protection Officer: Consensus to add 1 FTE.**

* **Police Department: Consensus to add 6 FTE Police Officers and 1 FTE School Resource Officer (SRO).**

In response to Councilor Brauner's inquiry, Mr. Patterson said he spoke to the School District Superintendent and the discussion about the possibility of adding a second SRO funded by the School District was in the context of the Public Safety Tax proposal.

Chair Traber said he believes adding 12 Police Officers is too much, but he can support adding 6. Councilor Brauner said he definitely supports including funding for the 3 existing authorized officers. Councilor Hirsch opined 6 officers may be too many. Chief Sassaman said OSU was considering adding 5 officers to address neighborhood livability issues. He emphasized that the number of officers added does matter due to injuries, illnesses, and vacations. In trying to be preventative and respond to livability issues, 3 officers will not have much of an impact. Mr. Patterson noted the community will expect to see results. In response to Councilor Brauner's inquiry, Chief Sassaman confirmed SROs are sworn Police Officers.

* **Dispatch: Consensus to not include**

Councilor Brauner said he prefers a 911 district instead of including Dispatch in the PST. If it is included in the PST and a 911 district passes, citizens will be paying twice or an adjustment will have to be made. In response to Councilor Hirsch's inquiry, Chief Sassaman said implementing a district would take time and the radio system needs are more immediate. Councilor Brauner suggested taking savings that will result from the lag to recruit and train officers to help with Dispatch needs such as the radio system. If the district does not pass, the City will still have to address 911 funding issues.

Ms. Brewer estimated the cost of implementing what the Committee has agreed to at about \$2m counting the hiring and training lag. Upon Council's approval of the Committee's recommendation, she will review the numbers, look at cash flow and timing needs to estimate a rate, and return to the Committee with a full costing proposal.

In response to Councilor Brauner's inquiry, Mr. Patterson said he does not recommend presuming the School District will fund the second SRO position. He suggested including 1 SRO in the Public Safety Tax package. The second SRO position can be contingent upon School District funding.

The Committee unanimously recommends Council direct staff to create a public safety tax that restores the following services: Reopen Fire Station 5 including an ambulance, add 1 FTE Fire Department Training Lieutenant, add 1 FTE Fire Protection Officer, add 1 FTE School Resource Officer, and add 6 FTE Police Officers.

2. Taxpayer Cost Neutral - The Committee agreed the proposal cannot be cost neutral to taxpayers because it will not produce enough revenue.

3. Rate Structure - The Committee discussed the fairness of assessing a tax by account type, service type, water usage, and meter size. Councilor Brauner suggested charging a flat rate per meter. Multi-family units or other residential structures with only one meter would be charged based on the number of living units. Councilor Brauner opined that using a flat rate would keep the tax simple and fair.

The Committee unanimously recommends Council charge a flat rate per meter with the one exception being where there is a single meter feeding multi-family units, that meter is charged at the rate of the number of units on the single family flat rate.

4. Time Line for Implementation - The Committee unanimously recommends Council implement the Public Safety Tax effective July 1, 2013.

5. Public Meetings/Discussions Time Line - The Committee agreed public comment opportunities should be at regular Administrative Services Committee meetings and as part of Budget Commission meetings (direction only).

III. Possible Fund Closures (Attachment)

Ms. Brewer reviewed the staff report. In response to Councilor Hirsch's inquiry, Ms. Brewer said from an individual department's perspective, having a separate fund gives a false sense of how much money is available. When all tax funds are combined, re-balancing and re-allocating is necessary to ensure a positive ending fund balance.

Councilor Brauner said he supports staff's proposal, as it seems like busy work to combine and re-balance funds, especially when there is no legal requirement to have separate funds for property tax supported services. Chair Traber agreed.

In response to Councilor Hirsch's inquiry about unforeseen consequences, Mr. Deghetto said he supports the change, although he had a minor concern about ensuring adequate funding for Osborn building maintenance. Ms. Brewer said a replacement reserve could be established. She added staff would like to be more deliberate about funding maintenance needs and unfunded liabilities.

In response to Chair Traber's inquiry, Ms. Brewer said transfer of the Urban Forestry fee to the General Fund is different than the Transit and Sidewalk fees, which go to the Transit and Street funds, respectively. She noted the Urban Forestry fee will still be set aside in the General Fund as a committed reserve.

The Committee unanimously recommends Council close the Parks and Recreation Fund, the Fire and Rescue Fund, and the Library Fund, moving balances to the General Fund by means of resolutions to be read by the City Attorney.

The Committee unanimously recommends Council change Corvallis Municipal Code Chapter 3.09.040 Urban Forestry Fee to be accounted for in the General Fund by means of an ordinance to be read by the City Attorney.

Ms. Brewer said when the Financial Policies are reviewed in February, staff will remove language regarding the allocation of property taxes.

IV. Other Business

Chair Traber said he will be on vacation from January 31 to February 8. Councilor Brauner volunteered to report on the Administrative Services Committee (ASC) meeting at the February 4 Council meeting. Councilor Brauner noted he will be absent from the March 20 and April 17 ASC meetings.

Ms. Brewer said due to labor bargaining training, she and the Human Resources Manager will not be available to attend the February 6 meeting where the Municipal Court Judge recruitment is tentatively scheduled for discussion. The group agreed that

discussion can occur at the Council meeting instead and the item should be added to the February 4 Council agenda. Ms. Brewer recommended that the February 6 ASC meeting be canceled. The Committee agreed.

In response to Chair Traber's inquiry, Councilor Brauner said unfunded liabilities is a topic for discussion in Executive Session as part of meeting with the labor negotiations team. Ms. Brewer said she believes the Human Resources Manager is working toward scheduling an Executive Session to discuss bargaining priorities and what is on the table.

The Committee unanimously recommends Council set a liaison to Majestic Theater Board, with appointment by the Mayor.

The February 6 Administrative Services Committee meeting is canceled. The next meeting is scheduled for 3:30 pm, Wednesday, February 20, 2013 in the Madison Avenue Meeting Room.

The meeting adjourned at 5:55 pm.

Respectfully submitted,

Biff Traber, Chair



MEMORANDUM

To: Administrative Services Committee
From: Karen Emery, Director 
Stephen DeGhetto, Assistant Director 
Date: December 31, 2012
Subject: Majestic Theatre Management Loan Extension Update

Issue: The Majestic Theatre Management (MTM) received a \$20,000 interest free loan in October 2010. In January 2012 City Council approved an extended repayment schedule that began in September of 2012. This update is informational and will show to date the progress MTM has made on the loan.

Background: The City authorized a \$20,000 loan to MTM during a transition period between executive directors and the organizational restructuring. The funding was to aid cash flow supporting personnel, materials, supplies, and utilities. A loan extension was requested and in January 2012 City Council approved an extended repayment schedule for MTM that began in September of 2012 for \$100 per month. The loan repayment schedule is structured through an addendum to the original promissory note. To date MTM has repaid \$400.00 and the balance due the City is currently \$19,600.00.

Discussion: MTM continues to make progress in their organizational structure, programming, and partnerships. The City, as the owner of the Majestic Theater and MTM, as the operator, provide community theatre and theatrical education opportunities in Corvallis. MTM has outlined a recovery plan including educational programming, strategic planning, event and production marketing, and rebuilding the donor support of community theatre.

Recommendation: Staff recommends that City Council continue the annual review of the loan and incorporate the review as part of the MTM annual reporting to the Human Services Committee.

Review and Concur:



James A. Patterson, City Manager



Nancy Brewer, Finance Director

Attachments: Staff Memo Jan 10, 2010 with Promissory Note and Resolution 2010-39
Promissory Note Extension dated Feb. 8, 2012
Use Agreement



MEMORANDUM

To: City Council and Mayor
From: Karen Emery, Director
Steve DeGhetto, Assistant Director 
Date: January 3, 2010
Subject: Majestic Theatre Management Loan Extension

Issue:

The Majestic Theatre Management (MTM) received a \$20,000 interest-free loan in October 2010. MTM would like to request an extension and would like the repayment to begin in September 2012 with payments of \$100 per month.

Background:

The City authorized a \$20,000 loan to MTM during a transition period between executive directors and the organizational restructuring. The funding was to aid cash flow supporting personnel, materials, supplies, and utilities. During the MTM transition period the requirement to request an extension was missed as well as the loan repayment. The loan was termed for one year and was to be paid off on October 31, 2011. The loan extension was to be in writing and was due in August 2011.

Discussion:

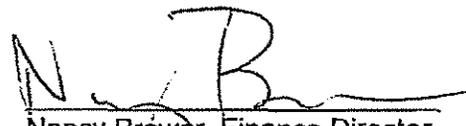
MTM continues to make progress in their organizational structure, programming, and partnerships. The City as the owner of the Majestic Theater and MTM as the operator, provide community theatre and theatrical education opportunities in Corvallis. MTM has outlined a recovery plan including educational programming, strategic planning, event and production marketing, and rebuilding the donor support of community theatre.

Recommendation:

Staff recommends that City Council accept the MTM request to extend the 2010 loan repayment to September 2012 with payments of \$100 per month through an addendum to the Promissory Note.

Review and Concur:


James A. Patterson, City Manager


Nancy Brewer, Finance Director

Attachments: MTM request to extend letter, Promissory Note MTM/City of Corvallis

PROMISSORY NOTE
between
THE CITY OF CORVALLIS AND
MAJESTIC THEATRE MANAGEMENT, INC.

This agreement and note is entered into this twentieth day of October, 2010 between the City of Corvallis, a municipal corporation of the State of Oregon, hereafter called CITY and Majestic Theatre management, Inc. a corporation, hereafter called MTM.

MTM hereby promises to pay to the order of the CITY, the sum of Twenty Thousand Dollars (\$20,000), due on or before October 1, 2011.

This loan is made as part of the CITY'S intent to financially support the direct operations of the Majestic Theatre, Corvallis, Oregon. The terms of the note are as follows:

1. The loan to MTM will be interest free for the term of the note.
2. The funds will be made available to MTM within ten business days of the signing of this note.
3. MTM will use the funds loaned by the CITY for the daily operations of the Majestic Theatre, including, but not limited to, personnel costs, materials and supplies, contract services, utilities, and other related normal and reasonable costs generally associated with the theatre operations. This loan is for the exclusive benefit of MTM. Any attempt to assign, transfer, or pledge by either party without the prior written consent of the remaining party shall be in violation of the terms of the note.
4. MTM will be required to report to the Corvallis City Council regarding the status of its financial condition as part of its annual report, scheduled for Spring, 2011.
5. MTM shall repay the loan as it deems it has funds available to do so, but the loan shall be repaid in full no later than October 1, 2011. There will be no pre-payment penalty. If MTM requires an extension of this loan, it shall file a request with the CITY no later than August 31, 2011. Any extension, modification or novation of this loan and note must be made in writing and signed by both parties.
6. MTM agrees 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.
7. In the event of default in the repayment of this note, the CITY, at the option of the CITY, may declare the entire balance immediately due and payable. If suit or action is commenced to collect this note or any portion thereof, MTM promises to pay such additional sums on account of attorney's fees as the court shall deem reasonable in such suit or action or any appeal therefrom. In addition to, and as a cumulative remedy and not an alternative to any other legal remedy CITY may have, CITY may, but is not required to, withhold annual payments to MTM from interest earned on the endowment to repay monies owed under this note.

All notifications necessary under this contract shall be addressed to:

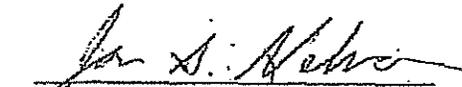
City of Corvallis
Karen Emery, Parks & Recreation Director
PO Box 1083
Corvallis, OR 97339-1083
541-766-6918

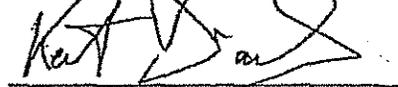
Majestic Theatre Management, Inc.
Kent Daniels, President
115 SW 2nd Street
Corvallis, OR 97333
541-766-6976

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

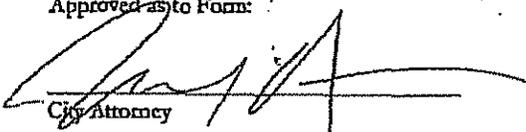
CITY OF CORVALLIS

MAJESTIC THEATRE MANAGEMENT, INC.


Jon S. Nelson, City Manager


Kent Daniels, President

Approved as to Form:


City Attorney

MTM LOAN

RESOLUTION 2010-39

A RESOLUTION TRANSFERRING APPROPRIATIONS FROM GENERAL FUND CONTINGENCIES TO NON-DEPARTMENTAL FOR A LOAN TO MAJESTICE THEATRE MANAGEMENT, INC.

Minutes of the meeting of October 18, 2010, continued.

A resolution submitted by Councilor Patricia Daniels.

WHEREAS, ORS 294.450 allows appropriations to be transferred after the budget has been adopted; and

WHEREAS, Majestic Theatre Management, Inc. (MTM) has requested the City loan MTM \$20,000 for a one year term to facilitate their management of the City-owned theatre and to cover costs of operation; and

WHEREAS, this loan will not accrue interest, and MTM may pay the monies back any time but no later than October 1, 2011;

WHEREAS, the City Council of the City of Corvallis finds that it is in the best interest of the City to make this loan to continue MTM operations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES that appropriations in the FY 2010-2011 budget be transferred as shown below; and

BE IT FURTHER RESOLVED that the Finance Director be authorized to make the proper adjustments in the budget appropriations.

| <u>FUND</u> | <u>FROM</u> | <u>TO</u> |
|------------------|-------------|-----------|
| General Fund | | |
| Contingencies | \$20,000 | |
| Non-Departmental | | \$20,000 |



Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.



MAJESTIC
THEATRE
MANAGEMENT

115 SW 2nd St., Corvallis OR 97333 • (541) 758-7827 • www.majestic.org

To The City Council for the Town of Corvallis and the Honorable Julie Manning,

We are writing today in regards to the Majestic Theatre Management's standing debt obligation of \$20,000 owed to the City of Corvallis. We would like to request the City Council permit Majestic Theatre Management to defer on this commitment until the September 2012 and the start of our next fiscal year. We would like the approval of the council to establish a payment plan with monthly installments of \$100.

The \$20,000 loan was granted by the City Council last year to assist the organization with cash flow and operational expenses following the "dark" period connected with the seismic retrofit upgrades to the facility. MTM's original commitment was to repay the loan in full by August of 2011.

We sincerely apologize for our company's failure to communicate earlier regarding the loan. Late in the summer of 2011 at the time the loan was due, MTM was bringing in new executive management and overseeing the transition of several key staff positions. This lapse resulted from the MTM's limited human resources and the changing leadership.

Today, The Majestic Theatre stands poised at place of both promise and uncertainty. We are in the initial stages of a strategic planning process designed to increase the impact of our institution and transform how we serve the community.

In just the last few months alone we have seen great progress in our program reach.

- We are in the process of building a dynamic new educational program built on an inclusive, accessible and forward thinking model.
- We are developing new programs for adult education and redesigning the community theatre model which had gone into a period of artistic, organizational and financial decline.
- We are creating a lab space for community projects and new rental partnership models that will make the venue available to a much wider set of users.
- We are committed to increasing the representation of all community voices. In 2012 we will see new programs and partnerships reaching out to the Latino community, LGBT, at-risk youth, Native Americans and many other groups, organizations and interests.

The Majestic Theatre is positioned to see significant increases in our audience as we diversify our programming. We contend The Majestic, and the culture sector at large, has a vital role to play in the economic development of downtown Corvallis. Our objective is to provide more consistent and diverse services through classes and performances. In doing so, we hope to reverse the trend of Corvallis citizens travelling to Portland and Eugene to see concerts, plays and other events. If we can achieve these goals, we can easily imagine a new renaissance for downtown business with more people shopping, dining and enjoying our beloved city.

We are now finally in a position where we have strong management and staff with the correct skill sets to address the challenges of today's economic and cultural landscape. However, our own financial setbacks and the absence of the correct leadership in the organization over the last several years has diminished our cash reserve and weakened our support from individual donors, corporations and foundations.

The tenuous stability of Corvallis Community Theatre presented a fresh challenge in the current fiscal year. CCT was our primary rental partner accounting for one third of the total use in our venue. MTM faces a shortfall of over \$20,000 connected to lost rental income due to CCT's insolvency. This presents both immediate challenges to our ability to operate while also demanding that we develop new markets and opportunities in future years.

By granting a deferral on the loan, MTM will have the opportunity to implement new financial and business practices, develop its Board of Directors, further its strategic planning work, advance development work in the community, and focus on the essential program commitments vital to our success and sustainability.

We see a bright future for The Majestic as we look ahead to the centennial in 2013. Still, there is much work ahead of us before we are secure on the path forward. Allowing us time before we begin repayment followed by long term payment plan would be very valuable as we stand at the crossroads.

Thank you for your time and consideration. We look forward to the opportunity to speak before the council, receive your comments and respond to your questions.

Sincerely,

Corey Pearlstein
Executive Director
The Majestic Theatre

PROMISSORY NOTE EXTENSION

This Promissory Note Extension, dated February 8, 2012, amends the agreement entered into on October 20, 2010 between the City of Corvallis, a municipal corporation of the State of Oregon, hereinafter called "CITY" and Majestic Theatre Management, Inc., an Oregon corporation, hereinafter call "MTM".

1 The City and MTM agree to modify the original agreement as follows:

5.1 The loan repayment schedule shall begin September 2012 with payments of \$100 per month

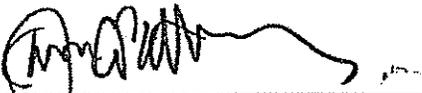
5.2 The repayment schedule and terms of this Extension shall be reviewed by Corvallis City Council in January 2013

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

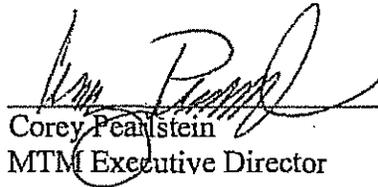
IN WITNESS WHEREOF, the parties have herewith executed their signatures.

City of Corvallis:

Majestic Theatre Management, Inc.

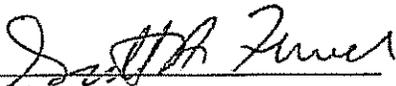


James A. Patterson
City Manager



Corey Pearlstein
MTM Executive Director

Approved as to Form:



City Attorney

**USE AGREEMENT BETWEEN THE CITY OF CORVALLIS
AND MAJESTIC THEATRE MANAGEMENT, INC.**

THIS AGREEMENT, made and entered into this 1st day of July 2011, is by and between the City of Corvallis, hereinafter referred to as "CITY," and Majestic Theatre Management, Inc., an Oregon not for profit corporation, hereinafter referred to as "MTM" and jointly referred to as Parties, or individually as a Party, mutually agree as follows:

The CITY and MTM are mutually interested in using the City-owned facility, located at 115 SW 2nd Street, Corvallis, Oregon, hereafter referred to as "Majestic", as a community theatre. MTM has successfully managed the theatre since August 1991 under agreement with CITY. CITY has determined MTM is qualified and capable of providing the services required by CITY.

1. Term

- 1.1 The term of this Agreement shall begin July 1, 2011 and continue until June 30, 2014 unless either party cancels upon written notice.
- 1.2 CITY and MTM realize the successful operation and financial health of the Majestic requires that rentals be booked in advance. This may require booking past the expiration date of this agreement. It is therefore agreed that, in the event this agreement expires or is terminated by CITY under the agreement's provisions, CITY or any organization operating the theater after the expiration or termination of this agreement shall honor rentals up to eleven months past the date of expiration or termination. Any fees collected by MTM prior to the expiration or termination of the agreement for bookings between the date of expiration or termination and one year past said date, shall be remitted to CITY.
- 1.3 This contract may be extended, by mutual agreement, for three additional years. Notification of intent to extend the contract will be submitted in writing by certified mail, return receipt requested no less than 60 days prior to the end of the contract.
- 1.4 If this Agreement crosses fiscal years, funding for future years is contingent upon the City Council adopting appropriations.

2. Use of Premises

- 2.1 **Premises.** CITY, in consideration of the terms, covenants, and agreements herein contained, authorizes MTM to manage and operate a performing arts center on the premises situated at 115 SW 2nd Street, Corvallis, Oregon (Facility A) and also located at the Flomatcher Building at Berg Park (Facility B). The space at Facility B is 40 feet wide and 50 feet long and encompasses only the wood shop within the Flomatcher Building at Berg Park. MTM may also park up to 15 vehicles on a day-use basis, in areas identified by CITY staff. MTM stipulates the premises at both facilities have been examined, including the grounds, and that they are, at the time of this agreement, in good order, repair, and in a safe, clean, and useable condition for the purposes intended.
- 2.2 For Facility A, CITY shall be responsible for major structural support elements including but not limited to foundation, exterior and interior walls, roof repairs, floors and subflooring (excluding floor coverings), and any other items which, if not maintained or repaired, would result in long-term damage to Majestic. In addition, CITY is responsible for the replacement of building mechanical systems such as plumbing, HVAC and electrical. For Facility B, city shall have no obligation for repair, maintenance or replacement of structures or systems. In cases where responsibility is unclear, both PARTIES will work together to come to a satisfactory solution.

2.3 Exclusive Use.

- 2.3.1 CITY grants MTM exclusive license to use Majestic and CITY-owned equipment therein for the term of this agreement or as such term may be extended in accordance with the provisions of this agreement; and, further, CITY promises not to grant to any other person any right to use Majestic for such period or periods or take any action not in accordance with this agreement which would inhibit MTM's rights pursuant to this agreement.
- 2.3.2 The City grants exclusive use of Parcel B in exchange for facility use for educational and Parks and Recreation programming at the Majestic Theater (Parcel A).
- 2.3.3 The in-kind rate of exchange is not to exceed \$3,000 annually. The in-kind rate shall be determined by then current Majestic hourly room rates and then current City Shop (Parcel B) monthly rates.

2.4 **Inspection.** Any governmental agency which has lawful jurisdiction over Majestic or the operations at Majestic, including CITY, may make inspections of Majestic and its operations at any time that Majestic is open or at any other time or times which may be reasonable for such inspections, provided however, that such inspections shall be made only by authorized personnel of such authorities or of CITY. Such inspections shall not interfere with the orderly operation of Majestic by MTM.

2.5 **Damage to Premises.** MTM shall be responsible for all damages resulting from the abuse of the property. MTM shall not engage in and/or conduct any illegal activities on the property.

2.6 **Property Tax.** The Assessor's Office has determined that, under the general terms and conditions of this Agreement, the property will not be subject to property taxes. In the event the property should be subject to a property tax assessment, MTM shall either be responsible for the assessments or CITY may terminate the Agreement to avoid assessment, whichever is most expedient and which relieves CITY from a liability to pay taxes.

2.7 **Other Charges.** MTM is responsible for all other fees, charges, taxes, and surcharges which are applicable to the operation of MAJESTIC, except those indicated in 2.7.

2.8 **Utilities.** CITY shall provide water, sewer, and storm; MTM shall pay for all other utilities.

2.9 Funding

2.9.1 Subject to annual budgetary appropriations, CITY shall budget sufficient authority to turn over to MTM all interest earnings accrued to the Majestic Theatre Endowment in the preceding fiscal year. CITY shall make full and complete payment of Interest earnings to MTM by September 15 of each year. MTM shall use the interest earnings to carry out obligations provided for under this Contract.

2.9.2 CITY shall invest the principal in the Majestic Theatre Endowment as part of CITY's pooled investments in compliance with the City Investment Policy. The Investment Policy is updated annually and reviewed by the Investment Council.

2.9.3 If, at anytime, MTM wishes to request funds from CITY, other than the Majestic Theatre Endowment Interest, such requests must be submitted to the City Manager prior to October 1 of each year and shall be considered by the Budget Commission during its annual review of CITY's annual budget and CIP Program with the exception of Economic Development funds. Economic Development fund requests shall follow the process outlined by the Community Development Department. All other requests for which funds are not budgeted shall be made directly to the City Council.

3. MTM Responsibilities

3.1 MTM is, and shall perform this agreement as, an independent contractor and as such, shall have and maintain complete control over all of its employees, subcontractors, agents, and operations.

Neither MTM nor anyone employed by it shall represent, act, purport to act or be deemed the agent, representative, subcontractor, employee, or officer of CITY.

- 3.2 MTM shall provide CITY with financial reports at quarterly intervals. These reports shall include cash flow reports;
- 3.3 MTM shall give CITY immediate notice in writing of any action or suit filed, and prompt notice of any claim made against MTM by any subcontractor or vendor which may result in litigation, related in any way to this agreement.
- 3.4 It is acknowledged that MTM's status is a not for profit corporation. MTM shall notify CITY immediately if it's corporate status changes.
- 3.5 **Operations.** As a condition of this Agreement, the MTM agrees to manage and operate the Majestic as follows:
 - 3.5.1 Operate Majestic in accordance with all provisions of this contract for the convenience of the public;
 - 3.5.2 Support education/training in the performing arts and theatrical crafts and assist individuals and organizations to bring performances to the public;
 - 3.5.3 Use MTM's best efforts to secure, maintain, and develop full utilization of Majestic and to foster a positive public image for Majestic;
 - 3.5.4 Establish and maintain operational policies and procedures, including but not limited to user rates, which balance low cost access and self-sufficiency. The policies shall also reflect a service orientation that fosters community use and enjoyment;
 - 3.5.5 Encourage free artistic expression by permitting groups and organizations use of the facility without discrimination, in a fair and equitable manner, and by allowing events which appeal to a broad audience and are free from censorship;
 - 3.5.6 Develop an effective outreach program to support Majestic through alliances with community organizations and a strong network of volunteers;
 - 3.5.7 Manage the finances of Majestic in a prudent manner, so as to minimize using any CITY General Fund money for routine building maintenance or maintenance of items within MTM's responsibility as specified within this contract;
 - 3.5.8 Obtain all federal, state and local permits, licenses and authorizations necessary for the management and operation of this agreement. CITY shall cooperate with MTM in obtaining any such permits, licenses, and authorizations;
 - 3.5.9 Provide security to prevent unauthorized entry to Majestic;
 - 3.5.10 Provide public access to information about Majestic, including listing Majestic's phone number in the local phone book; and electronic media to keep the public informed as to programs events and facilities available at the Majestic.
 - 3.5.11 Furnish, at MTM's own expense, such business equipment, materials and supplies necessary for the proper operation of Majestic.
 - 3.5.12 MTM shall be responsible for on-going maintenance and repair of Majestic resulting from theatre use, including custodial type maintenance such as window washing and routine cleaning. This shall include, but not be limited to, ongoing maintenance such as the replacement of HVAC filters and care of interior wall finishes, and floor coverings.
 - 3.5.13 MTM shall correct within 48 hours any concerns expressed related to the cleanliness of the facility.
 - 3.5.14 MTM shall report any instances of vandalism to the structure and its surroundings to CITY's Parks and Recreation Department within 24 hours of discovery.

3.5.15 MTM shall conduct monthly inspections of the exterior lighting system and notify Parks and Recreation of any lighting failures in a timely manner.

3.5.16 MTM shall be responsible for assuring that smoke detector(s) are in good working order, including periodic testing at no less than 6 month intervals and replacing dead batteries, pursuant to ORS 479.275.

3.6 **Annual Report.** An annual report for the preceding fiscal year shall be submitted to CITY by MTM no later than December 31 of each year. The report shall include, but is not limited to, the following:

3.6.1 MTM's Activities to maintain and enhance the building and its equipment, to optimize the utilization of the facilities, to manage the finances of the Majestic in a prudent manner, so as to minimize using any CITY General Fund money for theater operations and routine building maintenance.

3.6.2 Income statement and balance sheet, including any earnings from trust funds;

3.6.3 Summary of accomplishments;

3.6.4 Goals and expectations for the coming year;

3.6.5 Budget for the coming fiscal year showing all expected revenue and expenses;

3.6.6 Use of facility, including number of permits, estimated attendance, etc.;

3.6.7 A facility maintenance plan for the coming year;

3.6.8 An annual financial review completed at MTM's expense. The review shall be completed by an outside third party. This information shall be supplied to CITY within two weeks of its completion with an indication in the annual report as to the status of the review.

3.6.9 List of MTM-owned equipment with a minimum valued of \$5,000.

3.6.10 Proof of CITY-owned equipment, personal property and improvements other than permanent buildings or fixtures.

4. City Responsibilities

4.1 City shall allow use of the premises Parcel A and Parcel B to MTM subject to the terms and conditions of this Agreement.

4.2 CITY shall be responsible for major structural support elements including but not limited to foundation, exterior and interior walls, roof repairs, floors and sub-flooring (excluding floor coverings), and any other items which, if not maintained or repaired, would result in long-term damage to Majestic. In addition, CITY is responsible for the replacement of building mechanical systems such as plumbing, HVAC and electrical. In cases where responsibility is unclear, both PARTIES will work together to come to a satisfactory solution.

4.3 City shall work cooperatively with MTM to ensure complimentary programming.

4.4 City will provide camera-ready Parks and Recreation logo to MTM.

4.5 City will advertise the contact information for the Theatre in the Department's bi-annual Activity Guide.

4.6 City will inspect the Facility on an annual basis to ensure compliance with this Agreement. The inspection will be an opportunity for each PARTY to point out areas of concern. Notes of the inspection shall be kept by CITY with a copy forwarded to MTM.

5. Assignment

5.1 MTM shall not assign this Agreement in whole or part or grant any concession or license to use the premises or any part thereof. An attempt to assign, grant concession, or license made by MTM shall, at City's option, render this Agreement void. It is expressly agreed, however, that

any damage to the premises or other obligations owed to CITY under this Agreement shall not be affected by such termination, but shall remain enforceable by CITY under this Agreement's applicable provisions which shall also survive termination under this section.

6. Alterations and Improvements

- 6.1 MTM shall make no alterations, changes, improvements, or construction without prior written consent from CITY through the Parks and Recreation Department. As part of this consent, CITY may require a bond.
- 6.2 CITY reserves the right to establish certain conditions for capital improvements, as appropriate. MTM may develop preliminary concept plans, raise funds, and be responsible for capital improvements to Majestic upon receiving prior written approval from CITY. CITY shall approve all conceptual plans, prior to raising funds and obtaining building permits. All monies held or subsequently received by CITY for capital improvement to Majestic shall be made available to MTM when capital improvements are undertaken and when approved by the City Council.
- 6.3 All agreed-upon improvements must comply with all applicable Federal, State, and City ordinances.
- 6.4 Any subcontractor hired by MTM to perform any permanent alterations or improvements to Majestic must adhere to CITY's requirements regarding indemnification and insurance prior to the commencement of any such work.
- 6.5 Unless specified in writing, all such improvements shall become the property of City upon termination of the Agreement.

7. Sale or Exchange of Equipment

- 7.1 MTM may, from time to time, desire to sell or exchange equipment made available for its use in connection with operation of MAJESTIC, in order to enhance and improve theater operations. In such cases, MTM shall make a written request to CITY, setting forth the terms of the proposed sale or exchange, documenting that the sale or exchange will return the approximate market value of the item(s) sold or exchanged, and explaining why the sale or exchange will improve or enhance operation of MAJESTIC. CITY shall review the proposed sale or exchange for compliance with the requirements of Chapter 1.04 of the Corvallis Municipal Code and to determine if it would be in the best interest of CITY, and shall approve or disapprove the proposed sale or exchange in writing. Upon receipt of written approval from CITY, MTM may proceed with the sale or exchange. CITY will promptly execute any documents that may be required to complete the sale or exchange.
- 7.2 Removal of Fixtures/Personal Property. Upon the completion of the term of this agreement, as may be extended by option or otherwise, MTM is expressly given the right at any time within ninety (90) days after such termination to enter upon and remove from the site any equipment, personal property or improvements of any kind and nature, other than permanent buildings or fixtures, which were purchased or placed upon the site by MTM, but MTM shall not be obligated to so remove any of the above. Upon the expiration of said ninety (90) day period, any of the above items remaining on the site shall become the property of CITY.

8. Liability

- 8.1 MTM shall insure all equipment and furnishings not owned by CITY which are housed in the facility. CITY insurance shall cover CITY-owned equipment housed in the facility.
- 8.2 **MTM General Liability.** MTM shall carry in its own name a comprehensive general liability policy covering all of its operations, other than automobile, with limits of not less than \$1,000,000 for each occurrence and in the aggregate bodily injury and \$1,000,000 for each occurrence and in the aggregate for property damage, an umbrella liability of \$2,000,000 combined single limit per occurrence, or the equivalent thereof and shall include the City of

Corvallis as an additional insured. MTM shall provide a certificate of insurance to the City prior to the effective date of the Agreement.

8.2.1 In addition, policies must not specifically exclude coverage for sexual abuse and molestation. If sexual abuse and molestation coverage is excluded under MTM's Commercial General Liability coverage, evidence of separate sexual abuse and molestation coverage and the limits of that coverage must be shown in the form of an insurance certificate, and be provided to the City prior to the execution of any Agreement.

8.2.2 Should any of the above described policies be subject to cancellation or termination prior to the expiration date of this contract, MRM shall notify the City in writing by certified mail, return receipt requested, 30 days prior to the cancellation or termination date of such policy.

8.3 **Indemnification.** Within the limits prescribed by the Oregon Tort Claims Act, ORS 30.260 to 30.300, as in effect at the time of the incident, MTM shall indemnify, protect, defend, and hold City, their offices, 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 Agreement.

9. Notices

9.1 Any notices or correspondence shall be hand delivered or mailed to the following addresses:

City of Corvallis Parks & Recreation
Attn: Steve DeGhetto
1310 SW Avery Park Drive
Corvallis, OR 97333
541-754-1702

Majestic Theatre Management, Inc.
Attn: Dan Rayfield
115 SW 2nd Street
Corvallis, OR 97333
541-758-7827

10. Dangerous Materials

10.1 MTM shall not keep any dangerous, flammable, or explosive article on the property that might increase the danger of fire or might be considered hazardous by any reasonable insurance company, unless approved in writing by City. Any potentially dangerous, toxic, flammable, or explosive article must be disclosed to City in accordance with Community Right to Know laws or other laws and regulations.

11. Equipment

11.1 No equipment shall be jointly owned by the parties to this agreement.

11.2 Neither CITY nor MTM will be responsible for any loss or theft of the equipment belonging to the other. All equipment shall be clearly marked with the owner's name.

11.3 MTM may, from time to time, desire to sell or exchange equipment made available for its use in connection with operation of MAJESTIC, in order to enhance and improve theater operations. In such cases, MTM shall make a written request to CITY, setting forth the terms of the proposed sale or exchange, documenting that the sale or exchange will return the approximate market value of the item(s) sold or exchanged, and explaining why the sale or exchange will improve or enhance operation of MAJESTIC. CITY shall review the proposed sale or exchange for compliance with the requirements of Chapter 1.04 of the Corvallis Municipal Code and to determine if it would be in the best interest of CITY, and shall approve or disapprove the proposed sale or exchange in writing. Upon receipt of written approval from CITY, MTM may proceed with the sale or exchange. CITY will promptly execute any documents that may be required to complete the sale or exchange.

12. Non-Discrimination

12.1 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.

13. Termination

13.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated as follows:

13.1.1 The parties, by mutual written agreement, may terminate this Agreement at any time.

13.1.2 Except as otherwise provided, either party may terminate this Agreement in the event of a material breach of the Agreement by the other party. In the event of a breach by either party, the other party shall give the breaching party thirty (30) calendar days after written notice to remedy the breach, except as provided below.

13.1.3 City may terminate this Agreement immediately upon MTM's failure to have in force any insurance required by this Agreement. The City may provide MTM with two (2) days notice to secure replacement insurance.

13.1.4 Notwithstanding any other provision of this Agreement to the contrary, the City may, upon declaring MTM in default as provided below, and after the period specified for remedy of said breach, terminate the whole or any part of the Agreement by written notice to MTM advising of the date of termination, which shall be not less than fifteen (15) days after date of notice.

13.1.5 In the event CITY elects to terminate the agreement, upon such termination, MTM shall turn over to CITY: Any receipts, fees or charges collected for use of the facility after the date of the termination notice, and the unexpended balance, as of the date of the termination notice, of any funds provided to MTM as a result of this agreement. The formula for determining the amount to be returned to CITY is that proportion of the total operating budget funded and paid by the CITY, applied to total revenues received for the year-to-date at the time of termination. For the purpose of this section MTM's budget cycle of September through August shall be used. Example: If CITY's funding is \$20,000 of a total MTM revenue budget of \$250,000, CITY's proportion of funding is 8%. If the agreement were terminated on May 31 (9 months into MTM's fiscal year), and the total revenue received was \$180,000, CITY's share would be 8% of this amount or \$14,400. MTM would need to return to City the difference between \$20,000 and \$14,400 which equals \$5,600.

14. Default

MTM may be declared in default by the City if:

14.1 MTM fails to keep the Facility in a safe, sanitary and sightly condition, and in good repair or permits the Facility to remain in such condition for a period of fourteen (14) calendar days or more; or MTM vacates, deserts or abandons the Facility or permits the Facility to remain vacated, deserted or abandoned for a period of seven calendar (7) days; or Force Majeure. The performance of this agreement may be suspended and the obligations there under excused in the event and during the period that such performance is prevented by cause or causes beyond the control of the parties. Such causes shall include acts of God, acts of war, riot, fire, explosion,

accident, flood or sabotage; or an unconditional prohibition of the operation of the site by Judicial order, administrative or government allows, regulations, rules, requirements, orders or actions, Including refusal to Issue, cancellation, suspension or revocation of any permit, license or other authorization necessary for the management, operation, or maintenance envisioned by this agreement.

14.2 MTM becomes insolvent; or

14.3 A voluntary or involuntary petition in bankruptcy is filed by or against MTM; or

14.4 A receiver is appointed to take charge of MTM's affairs; or

14.5 MTM fails to comply with any of the statutes, ordinances, rules, orders, regulations, or requirements of the federal, state, county and city government.

15. Surrender

15.1 Upon the expiration of the original term or terms of this Agreement, or in the event of default, MTM shall surrender the Facility to CITY in as good an order and condition as when original agreement was signed, notwithstanding the usual wear, tear, and damages by the elements.

16. Title to Facility

16.1 It is the intention of the parties that legal title to the Facility and equipment made available to MTM for its use shall remain vested in CITY and no interest of MTM in real or personal property shall be created by this agreement. It is understood and agreed by the parties that this agreement does not create a lessor/lessee relationship between the parties. This agreement is a license to use the Facility under the terms and conditions specified in this agreement. Any rights granted to MTM by this agreement shall not be construed to imply any authority, privilege, or right to operate or engage in any business or activity other than as specifically provided in this Agreement.

17. Attorney Fees

17.1 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.

18. Integration

18.1 This Agreement embodies the entire Agreement of the parties with respect to the subject matter hereof. There are not promises, terms, conditions, or obligations other than those contained herein.

19. Waiver

19.1 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.

20. Interpretation

21.1 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon. The parties to this Agreement do not intend to confer on any third party any rights under this Agreement.

MEMORANDUM

January 15, 2013

TO: Administrative Services Committee
FROM: Nancy Brewer, Finance Director **NB**
SUBJECT: Public Safety Tax

I. Issue

To continue discussion on, and potential development of, a public safety tax (PST).

II. Background

The concept for the public safety tax began with Councilor Traber's suggestion that the Council could develop a Fire Protection Fee (FPF) to be assessed on the City's City Services bill. His concept was to make the fee as close to cost neutral for tax payers as possible by either lowering the City's permanent tax rate or giving rebates to tax payers equal to what they paid in the FPF. Some of these concepts were revised at the October 17 ASC meeting as the fee got more discussion.

- A. The Committee discussed that this fee will be more likely than not classified as a tax and it should be called a Public Safety Tax.
- B. The Committee discussed that the PST could fund the Fire Department as originally foreseen, but could also be a potential source of funding to achieve some of the City/OSU Collaboration initiatives surrounding Police services in neighborhoods and Dispatch services as calls for service continue to increase, and that it would be good to know what the strategic plan is for public safety operations that may need funding.
- C. The Committee discussed making the tax cost neutral to taxpayers, but that they needed to know how much was needed before they made a final determination.

Staff now has more information on a possible PST.

III. Strategic Plan

The concepts discussed to date have allowed staff to develop more information. As requested by the Administrative Services Committee, this report begins with a brief discussion of the strategies for staffing public safety services.

1. Fire Department Re-Open Station Five – As Fire Chief Emery has noted several times, the analysis done to determine which station to close was revealing in more ways than one. Based on the analysis of calls for service, it is clear that the demand for medical calls is so significantly higher than calls for fire suppression that additional medical transport services are needed. As a result, when Station Five was closed, only 3.0 FTE were eliminated, with the 6.0 remaining FTE re-allocated to Station Three to run a fourth ambulance about 60% of the year. This change in staffing has better served the citizens of Corvallis in terms of being more responsive to the high frequency medical calls, but may potentially be less responsive in the northwest Corvallis geographic area for Fire Suppression and Emergency Medical calls. The best alternative for addressing both call demand and service area demand would require keeping the fourth ambulance

in service, staffed with the existing 6 FTE, and add 9.0 FTE to re-open Station Five. In addition to the costs for staff, there are hard costs for the facility (i.e., utilities) and the need to increase funding to the vehicle replacement reserves for the replacement of the Engine as well as maintaining operation of four ambulances. Estimated costs to achieve this level of service is \$1.4 million annually including administrative overhead, but not including future wage/benefit increases.

2. Fire Department Training Lieutenant – Chief Emery’s strategic plan also calls for adding back a Lieutenant position to provide the required education, hands on training, skills assessments, and record keeping for the 100+ volunteer and paid Department members. As is expected, mandatory training requirements for the Fire Department are significant. Before the Training Lieutenant position was eliminated, this position was responsible for planning and scheduling training, and for keeping mandatory training records. Reinstating this position would provide consistent training across all three shifts, revision of dated lesson plans and curriculum, and an improved ability to provide make-up training for those who miss training because of emergency calls. Annual costs for a Training Lt. total \$154,050 for wages and benefits, required training, and administrative overhead. No additional vehicle would be required.
3. Fire Protection Officers – the Fire department’s strategic plan has called for increasing staffing in the Prevention Division since 2006. The current staffing arrangement (3 FTE) has been in place since the early 1990’s and is below the majority of Corvallis’ comparators. Exacerbating the staffing shortage, one prevention officer FTE has been assigned to OSU to fulfill fire prevention contractual requirements on campus; that position has not been backfilled due to the City’s financial situation at the same time that the number of students living off campus has increased. Some of the Collaboration discussions about off-campus housing quality and safety concerns would be addressed by increasing the number of Fire Prevention Officers and the inspection/education role these staff members play. The end result is that the Fire Prevention Division is struggling to meet state mandated objectives for inspections, fire plan review, public education, juvenile fire setting intervention, and fire investigation. Costs for an FPO total \$136,630 and include wages and benefits, equipment, and administrative overhead. In the short term, additional FPOs could be accommodated with the existing fleet, though an additional vehicle may be required in the future.
4. Police Department—the current staffing level in the Police Department at 53 sworn officers is lower than it was in 1992. The Corvallis population has grown more than 21 percent since 1990. In addition to more people, the population has changed in the proportion that is made up of OSU students. In 2012, over 19,700 undergraduate students (generally under age 25) are located at the campus in Corvallis; this represents a 77% increase since 1996 when the undergraduate student population was 11,096. The increased student population has resulted in a significant increase in the number and frequency of complaints about the livability of the community. Many of the livability issues the City is being asked to respond to are issues that require a Police presence – loud parties, fights, and neighborhood disturbances. To be proactive about addressing neighborhood issues will require more staff to be able to work on prevention and education initiatives that are being discussed by the Collaboration groups. The Collaboration Corvallis Neighborhood Livability Workgroup has recommended the City place a priority on increasing the number of sworn Police Officers to get to the same level of staffing as comparator university communities and better address the neighborhood livability issues.

As part of the Collaboration process, staff looked at Eugene, Boulder, East Lansing, and Davis as comparators. The size of the student or community population was the primary selection criteria for these communities. The sworn FTE/1,000 population ranges as follows:

| City | Population | Student Population | Non-Sworn | Sworn | Sworn per thousand |
|--------------|------------|--------------------|-----------|-------|--------------------|
| Eugene | 156,000 | 24,396 | 140.00 | 190 | 1.22 |
| Boulder | 97,385 | 29,952 | 109.00 | 173 | 1.78 |
| East Lansing | 48,579 | 47,800 | 26.00 | 65 | 1.34 |
| Davis | 65,622 | 32,653 | 39.50 | 61 | 0.93 |
| Corvallis | 55,450 | 26,000 | 32.25 | 53 | 0.96 |

The Matrix Staffing study completed for Corvallis has recommended 1.3 to 1.7 Sworn Officers per 1,000 population. There are several alternative ways to increase staffing, as follows:

- Minimum increase – fund the currently authorized but unfunded 3.0 FTE sworn Police Officer positions. Costs would be \$251,070 for staff, plus \$58,000 for all required equipment and overhead, and \$50,000 for an additional Police vehicle, for total first year costs of \$359,070. Of this, \$304,170 would be an on-going annual cost (not counting future salary/benefit increases), including a set-aside for future vehicle replacements, and a small amount for annual equipment and training costs. This would bring staffing levels to 1.02 per 1,000 population.
 - Mid-range increase – fund 6.0 FTE sworn Police Officer positions, the associated equipment costs and two new vehicles for a total first year cost of \$718,140 and on-going annual costs of \$608,340 (not counting future salary/benefit increases). With this level of staff increase, the Administrative Assistant position eliminated in FY 12-13 will need to be added back at a total cost of \$67,490. This option would bring sworn officer staffing to 1.08 FTE per 1,000 population.
 - More complete increase – fund 12.0 FTE sworn Police officers (at this level one would be a Lieutenant and one would be a Sergeant), equipment and three vehicles for a total first year cost of \$1,386,280 and on-going annual costs of \$1,216,680 (not counting future salary/benefit increases). This option would also include the Administrative Assistant position at a cost of \$67,490. This option would bring sworn officer staffing to 1.19 per 1,000 population.
 - Based on discussion at Council Goal Setting, another possible enhancement would be to add two School Resources Officer (SRO) positions. Since the positions would be working between several schools, an additional vehicle would be required for each officer. First year costs are estimated at \$141,200 for each officer including administrative overhead, with annual costs on-going estimated at \$91,000 each (not counting future salary/benefit increases). Staff expects that the 509J School District would pay half the costs for the SRO program.
5. Dispatch – The 9-1-1 Emergency Communications center serves all of Benton County and the public safety organizations working within the County. Funding for the center comes from State-wide 9-1-1 taxes (which are designed to fund only the “9-1-1 call taking” portion of the emergency communication operation) and charges assessed against using agencies. The City of Corvallis Police Department is the highest user of this service at 53% of the calls in FY 11-12, with Benton

County Sheriff at about 29%, Corvallis Fire at 9%, and Philomath Police at 8% rounding out the top system users. The last 1% of funding comes from 6 small agencies.

Funding for 9-1-1 services is challenging, and is based on a model implemented in 1983 to serve ten governmental agencies. As it is presently configured, the 9-1-1 center cannot add more agencies, and Adair Village Police Department is without desired dispatch service. Services desired/required by the larger agencies may not be needed by the smaller agencies which have veto power over increasing fees charged for services. The larger agencies are paying significant fees for services from constrained property tax resources, with Corvallis Police and Fire Departments combined paying nearly \$1 million per year. The Police Department is completing a study to determine whether or not a 9-1-1 Service District would be beneficial as a stable funding source. If a district is considered, it will require a vote to establish, and it is hard to predict at this point if users' county-wide would vote to approve a service district. It is also unclear whether a service district property tax would fund all existing charges assessed to user agencies, or would fund a portion of the costs with user agencies still paying some amount for services. This discussion and decision process will occur over the next several months.

The 9-1-1 operations strategic plan calls for the following:

- Radio Systems – the emergency response system is in a period of change relating to the radio system, moving from VHF to a 700 Mhz system. County-wide, two 700 Mhz towers have been installed, but Benton County needs two more towers to complete the system. Until the radio system is completed there are communications challenges where staff from different agencies may unknowingly “walk” over transmissions from other agencies and each agency needs to know which channel to switch radios to as they move around the county. One-time costs to complete the 700 Mhz system are estimated at \$500,000.
- Staffing – Current staffing levels are inadequate to meet the current level of calls for service, and with the a growing number of calls for service and the expected increase that will come with NextGeneration 9-1-1 (which will allow texting along with the ability to attach video or photos), the work load is expected to quickly overwhelm current staffing. There have been two staffing studies done (APCO and ESCI) of the 9-1-1 center and both recommend adding 4.0 FTE shift supervisors and a total of 21 FTE dispatchers. To achieve this level of staffing will require an additional \$802,100 annually.

One possible strategy to meet both of these objectives is to delay adding staff for the first one to three years of funding and use the PST resources for the radio system build out along with making modifications to the current 9-1-1 dispatch center to be able to add staff, and then hire to begin the increased level of staffing in the second or third year.

If all of the above enhancements were implemented (Police at the 12.0 FTE option) and funded by the Public Safety Tax the total revenue demand would exceed \$3.7 million. Clearly, the demand for additional resources for public safety is significant. The PST can be formulated to raise enough revenue for all of the above, for selected pieces of the above, or for some other funding purpose; an actual rate structure and monthly costs are likely to be key, critical factors in determining whether or not to proceed.

It is important to note that the enhancements identified above all assume that there will be no further budget reductions to current operations. The PST could be used to fund some amount or proportion of current operations costs to keep services that might otherwise be reduced or eliminated. Finally, for the Police Department, the strategy identified would enhance current services, but not achieve comparable staffing to other Oregon cities at 1.6 Officer per 1,000.

IV. Funding Alternatives

To be clear, there are a number of alternatives to fund added services such as those identified above.

- The primary form of funding for local governments in Oregon is the permanent tax rate. If that does not produce enough revenue to fund all required/wanted services, the City seeks voter approval for a local option property tax levy for a specific period of time. Under current Oregon Constitutional limits, the maximum period for a local option levy is five years. Continued funding beyond the five years would require additional voter approval. The public safety services identified within this memo would be eligible for property tax funding.
- Additional sources of revenue have been identified in prior years in the revenue alternatives matrix.

Based on prior discussions with the City Council about revenue alternatives, the Council has directed staff to work on developing the Public Safety Tax, billed monthly on the City Services Bill, as a mechanism to fund additional services for Police and Fire operations. Council's direction to this point has been to pursue the PST as a way to charge all in the community for services that all receive, regardless of their taxable/tax exempt status. A PST also gives the City more local control over resources and can provide a permanent funding source for services as opposed to a local option levy that would have to be renewed by voters every three to five years.

A Public Safety Tax could be added to the City Services Bill as early as July 1, 2013, but will require a significant work effort to address a number of details.

V. Taxpayer-Cost-Neutral

One of the biggest challenges the City faces is how to fund services. As the Committee members are well aware, the City has been cutting its budget most years for more than a decade, and will be again for FY 13-14. Some members of the community already think the City is not funding services they believe are critical; other members of the community think the City funds too much "fluff" and if the "fluff" was cut there would be adequate funding for the important stuff. As a long-time observer of the Corvallis funding issues, I would say that one person's "fluff" is another person's "critical need." As a result of this dichotomy, the City Council often seems faced with making decisions about balancing the budget by cutting or adding services and working within existing revenues or seeking new revenues.

As new revenues are discussed the Council pays attention to the potential cost to those who would be paying. Local option levies have been designed by the City Council to make an effort to reduce the impact on those in the community who may be low-income. The Sustainability Initiative Fees implemented two-plus years ago had considerable discussion about the rates for the fees and the ability of customers to pay; though most pay the fees each month without question, there are some members of the community who pay under protest, often including notes with their payments each month.

The members of the Administrative Services Committee and the City Council discussed the concept of cost neutrality for tax payers in establishing a PST during prior discussions. There are two ways to establish cost neutrality:

- To reduce the City's permanent property tax rate by the amount raised by a PST assessed against currently taxable property; in this case, any additional revenue for public safety services would come from entities that currently do not pay property taxes; or

- To have the City refund the PST paid by anyone who also pays property taxes; in this case, any additional revenue would come from entities which do not pay property taxes.

It is difficult to see how cost neutrality can be achieved if the PST is designed to fund all or part of the strategic plans identified above which are providing services not currently provided today. As it has evolved, the PST is now being considered as an additional revenue source to the City to fund specific enhanced services, and as such, staff is no longer looking at tax-payer cost- neutral alternatives. If the City Council wishes to have the PST be cost neutral to tax payers, it is unlikely that the services identified above would be funded.

VI. Potential Rate Structures

At the last ASC meeting where the PST was discussed, the members of the Committee seemed to concur on the concept of establishing a methodology for assessing a PST that was fair, equitable with regard to demand for public safety services, and raised adequate revenue to meet an expenditure target.

Staff has developed a database of utility customers. It is important to note that each customer has several different identifiers associated with the account – the meter size, the type of customer, etc. In some cases, a single entity may have multiple accounts, including a domestic water account, irrigation, and fire service. Large customers may have multiple accounts for domestic water service, or may have a domestic meter for basic office facilities and then will have larger meters to accommodate a higher level of water demand for a production environment. Even a large facility where all the use is domestic (i.e., a church) may have multiple domestic meters to achieve the flow requirements for multiple restrooms, or may have added a meter when a remodel was done that added facilities. On the opposite end of the multiple meter spectrum are large customers that have a single water meter/single account but may use more total water/sewer service than an entity that has multiple meters.

Another challenge with looking at the data is to account for currently vacant/unbilled accounts. In any given month, with the high number of rentals, the City could have several hundred account changes. As a result, we pulled a data set for an entire year by service location as opposed to pulling data by customer so that we would hopefully not duplicate accounts where there would be multiple customers in a year.

The third major challenge is in excluding certain accounts because they represent “subordinate use” at the same location. The primary account types staff believes should be excluded are for irrigation and fire services. In all cases, these water only accounts are a subordinate use for the facility and are there either for the specific purpose of fire suppression or to allow the property owner to use water to irrigate without incurring sanitary sewer charges since irrigation water does not go to the sanitary sewer. The data below identifies by account the total number of these excluded accounts, but we have not gone to the level of accuracy of tracking each excluded account to the associated meter size or service type. If the Council wants to pursue one of these billing options, more accuracy in the data set will be needed.

Staff determined that there may be multiple ways to look at the billing data to establish a PST, depending on Council’s goal. As a result, the following data is included for your information:

| Data Point | Number of Accounts |
|--|--------------------|
| By Account Type | |
| Total number of Water/Metered service accounts | 15,911 |
| Less irrigation accounts * | 496 |
| Less accounts outside the City limits * | 97 |
| Less fire service accounts * | 355 |
| Plus Wastewater/Storm Water only accounts | 361 |
| Total number of current accounts that would be billable | 15,324 |
| By Service Type | |
| Total number of single family accounts | 12,502 |
| Total number of Multi-Family accounts | 1,265 |
| Total number of commercial/industrial/group accounts | 1,891 |
| Total number of 509J accounts | 40 |
| Total number of Greek accounts | 56 |
| Total number of City accounts | 157 |
| Total Accounts by Service Type | 15,911 |
| By Meter Size | |
| Total 3/4 inch meters | 13,077 |
| Total 1-1.5 inch meters | 2,024 |
| Total 2-3 inch meters | 465 |
| Total 4-8 inch meters | 336 |
| Total 10 inch meters | 9 |
| Total Accounts by Meter Size | 15,911 |

* These account types are not currently billed for SIF fees due to their unique characteristics. Irrigation and Fire Service accounts are all associated with a regular “usage” account at the same location, so the regular account would be billed the PST. The accounts located outside the City limits pay water only, at two times the billing rate for in-City accounts.

Staff suggests there are at least three alternative rate structures that could be used to establish a PST based on the following alternative methodologies:

1. A flat rate per account – This methodology is the simplest of the three discussed here. It identifies a revenue target, then divides by the number of accounts and then by 12 to get to a monthly billing amount. Using the data above, the rate of \$5.43 per month on 15,324 accounts would raise around \$1 million annually, depending some on vacancies and collection efforts.
2. A graduated rate by service type – the service types identified above (i.e., single family, commercial) could be used to set up a rate where a specific proportion of the revenue to be raised was assigned to be collected from a particular account type. For example, if the Council wanted to raise 75% of the PST revenue from single-family and multi-family housing, a rate structure of around \$4.60 per month for single and multi-family accounts would raise about \$750,000 per year, with a rate of around \$13.40 per month for all other account types required to raise the remaining \$250,000 per year. Exact rates would depend on how the irrigation and fire meters work with the different service types.
3. A graduated rate by size of meter – in most cases, the size of the meter will follow with the size of the facility or the type of operations the facility has. The largest meters are primary for industrial

manufacturing uses and the 5/8 inch meters are usually found in single family homes or small businesses where water usage is most like domestic usage. Similar to the rate structure by service type, Council could determine that a specific proportion of the PST should be raised through an identified ratio applied to either larger or smaller meters. For purposes of this concept, staff has matched the graduated by service type, and assumed 75% of the revenue should be raised by 1 ½ inch or smaller meters. For this type of rate structure, a rate of around\$ 4.20 per month for 1 ½ inch or smaller meter would raise about \$750,000 annually while the rate for 2 inch or larger meters would be around \$63.75 per month to raise \$250,000. Exact rates would depend on how the irrigation and fire meters work with the different meter sizes.

Following are several sample customers reflecting most of the common types of customer accounts and the potential annual impact of the three rate methodologies:

| Monthly Billed Amounts | | | | |
|---------------------------------------|--------------------|-----------------------|---------------------------|----------------------------|
| | Number of Accounts | Flat rate per account | Graduated by service type | Graduated by size of meter |
| Single Family Residence | 1 | \$5.43 | \$4.60 | \$4.20 |
| 30 unit Apartment complex | 1 | 5.43 | 4.60 | 4.20 |
| Grocery store | 2 | 10.86 | 26.80 | 67.95 |
| Church | 3 | 16.29 | 40.20 | 72.15 |
| Samaritan Health Services/Hospital * | 19 | 103.17 | 254.60 | 615.75 |
| Oregon State University ** | 198 | 1,075.14 | 2,653.20 | 8,632.65 |
| Fraternity | 1 | 5.43 | 13.40 | 4.20 |
| The GEM | 1 | 5.43 | 13.40 | 63.75 |
| Community Outreach | 1 | 5.43 | 13.40 | 63.75 |
| City of Corvallis | 69 | 374.67 | 924.60 | 1,540.35 |
| 509J – School District (in City only) | 17 | 92.31 | 227.80 | 964.65 |

* Samaritan Health has a number of accounts around town. The number identified here is staff's first attempt to pull this data together for one customer.

** OSU has around 320 accounts, but a number of them are irrigation or fire service accounts. The 198 represented here is a “first blush” effort to exclude irrigation and fire service. More refinement of the number and type of accounts would be necessary if the PST goes forward.

VII. Tax Exempt Status

As discussed at the last ASC meeting, the PST, as it is contemplated, is a tax since it is not tied to services provided directly to the person who pays. As such, staff and the City Attorney have been reviewing state and federal law as it pertains to whether or not a tax exempt entity would be exempt from paying the PST. Under Sovereign Immunity governmental entities would likely be able to declare that they are exempt from paying the tax. However, a tax-exempt entity may choose to make the payment without protest to support the services being funded.

VIII. Summary and Next Steps

This staff report is provided to give the Administrative Services Committee and City Council more information about a Public Safety tax as a possible funding source to add public safety services to the City's current operations. The report includes information about the strategic plans associated with public safety, along with cost projections, and alternatives for structuring a Public Safety Tax that could be billed using the existing City Services bill.

The ASC and City Council should discuss this information and recommend a direction for staff to pursue and identify the public outreach effort the Council would like staff to develop. Specific discussion that would be helpful for staff would focus on:

- Identification of the desired services to be added to the budget, funded by a PST.
- Confirmation that the PST will not be cost neutral, but will bring additional revenue to the City.
- Preference for a rate structure for staff to further develop.
- Preferred time line for implementation.
- Number and design for public meetings to allow comments and discussion.

Review and Concur:



City Manager

MEMORANDUM

December 13, 2012

TO: Administrative Services Committee
FROM: Nancy Brewer, Finance Director **NB**
SUBJECT: Possible Fund Closures

I. Issue

To consider closing the Parks & Recreation, Fire and Rescue, and Library Funds to the General Fund.

II. Background

In the early 1990s, the City Council created the Parks & Recreation, Fire and Rescue, and Library Funds as separate entities from the General Fund. This action would not be the ordinary set-up for the operations held within these funds; most other cities have all of these departments' revenues and expenditures accounted for within the General Fund. However, at the time, Corvallis had some unique circumstances:

- The Fire Department had three Charter approved, permanent, property tax levies dating from the early 1940s that were dedicated to Fire Department operations and/or equipment replacement. State law required that these levies be tracked in a way to "prove" the monies were being expended as the Charter language required, and the Charter language stated these funds were to be deposited in the "fire department fund." Of particular concern was the fact that the Fire Department levies, two of which were millage rate based (growing at the rate of real market value which was between 15% and 20% annually in the early 90s), were producing more revenue than the total operating and maintenance costs for the Fire Department. Staff determined that the best way to meet the State and Charter requirements for these dedicated revenues was to establish a separate fund for the Fire Department. With the separate fund, the City was better able to track these revenues and reserve the balances not immediately needed for operations and maintenance. Ultimately, the City was able to use the Fire and Rescue Fund reserves to cash fund the replacement of Fire Station #1 downtown, and the capital costs of constructing Station 5.
- The City also had two Charter approved, permanent, property tax levies (one for Recreation and one for Parks & Recreation) dating from 1944 that were dedicated to Parks & Recreation activities. Similar to the Fire Department levies, State law required that these levies be managed in a way that "proved" that the specific levies were being used for the defined services. The Charter language did not have any requirement for establishment of a fund. The Parks and Recreation levies were considerably smaller than the Fire levies, and did not cover the costs of providing Parks & Recreation services, so when that fund was established the City continued to transfer monies from the property tax base in the General Fund to operate the Parks & Recreation system.
- Creation of the Library Service District led to a similar discussion about being able to prove the District monies had been expended on Library services, though there is no requirement to do so. As a result, the Library Fund was created, funded by the Service District and a transfer of property tax monies from the General Fund.
- The City also had a Charter approved, permanent, property tax levy for Street operations (1948), and voter approved, temporary, serial levies for Transit and for the Corvallis Arts Center. Both

Transit and Arts Center operations had been funded through voter re-approval of the serial levies dating to the early 1980s.

In the early 1990s, the City had significant revenue from non-dedicated sources such as the tax base, the permanent tax levies, and franchise fees and the City could therefore fund a robust menu of services; reserve balances were fairly high. Measure 5's passage in 1990 had relatively little effect on the City of Corvallis, with no significant loss in property tax revenue as a result of this statewide property tax limitation.

However, the statewide passage of Measure 47/50 in 1996/1997 had a different impact on the City's operations. The City's separate Charter approved tax base, permanent, and serial levies were pre-empted in favor of a single tax rate that was reduced by 17% from the 1997 levy amount so that total property tax revenues were reduced. The first year after Measure 50 was implemented the City's assessed value grew by only 0.25%.

III. Discussion

To implement M47/50, staff recommended, and Council accepted, that the separate funds be maintained and that the best method to address the single tax rate was to allocate property taxes to each fund at the same proportional share of the tax rate that each fund had before M47/50 went into effect. However, two years after adoption of M47/50, in order to keep all of the funds receiving property taxes at a positive balance, staff began to recommend changes in the allocation of property taxes between funds. The focus was still on a stable allocation (i.e., the same proportion would be allocated for 2-3 years), but that stability lasted only two more fiscal years before the allocation percentage changed each year. In FY 02-03, as part of the budget cuts implemented that year, the City stopped allocating property tax money to the Street Fund. In FY 10-11, as part of the budget cuts implemented that year, the City stopped allocating property tax money to the Transit Fund. The City had maintained the original proportion of property taxes allocated to the Corvallis Arts Center at 0.45% of the levy to keep the Arts Center whole. However, beginning with the budget balancing reductions made in FY 10-11, the Arts Center allocation was reduced along with other operational budget cuts. The Arts Center now gets an annual allocation that is equal to 0.20% of the City's tax levy.

To make the budget reductions in FY 02-03, staff created and began to use the Financial Plan titled "Property Tax Funds Combined" as the mechanism to balance the City's total property tax funded budget. This financial plan is a conglomeration of the data from the separate funds to ensure the total budget supported by property taxes is in balance. Once balanced, staff allocates property taxes so that each individual fund is projected to end the fiscal year with a *pro rata* share of the ending fund balance. Originally the Property Tax Funds Combined Financial Plan added up six funds; it currently adds up data from four funds – the General, Parks & Recreation, Fire and Rescue, and Library Funds (Attachment 1).

In 2006, the Charter was revised. Staff discussed whether or not the separate levies should be removed from the Charter; ultimately, staff recommended leaving the property tax levy language in the Charter (in a section titled "Provisions of Prior Charters Retained") in case some day in the future the property tax system is changed and these levies would once again be available.

This request is for the City Council to consider eliminating the Parks & Recreation, Fire and Rescue, and Library Funds, and transfer most of the operations currently held within those funds to the City's General Fund.

Staff within the organization continues to pursue methods to be more efficient with reduced resources. Within the Finance Department, we have made some significant changes to daily processes to reduce the work load and better manage with 20% fewer staff members. As we look at the budget process, one of the

most time consuming areas for staff work is associated with how we manage the operations receiving property taxes. The current mechanism, to use the Property Tax Funds Combined Financial Plan as the basic method for developing the spending plan and then taking that to the individual fund level, is a process that takes an extraordinary, and growing, amount of time. Specific areas of concern include:

- Over time, the allocation of property taxes to the separate funds has become complex, moving from whole percentage point allocations held stable for several years to allocating at the third (and soon to be fourth) decimal place. Financial Policies have been revised from stating specific allocation ratios to be used in developing the budget, to putting the allocation ratios in the policies after the budget was adopted, to taking out the allocation ratios altogether because the ratio was made at the last minute in the budget process. In the last Financial Policies revision, a statement was added to allow the Finance Director to make changes in the allocation during the course of the fiscal year to keep all funds in a positive cash position.
- Almost everyone who talks about the “Property Tax Funds Combined” financial plan calls it the General Fund. The actual General Fund Financial Plan operating expenditure budget is only about 40 percent of the Property Tax Funds Combined financial plan. This leads to calls to Finance Department staff to clarify why looking at the General Fund in the budget or audit report does not match what was discussed at a meeting (e.g., “the discussion at Council was about \$40 million but when I look in the budget at the General Fund I only see \$16 million in expenditures”), or to explain to a third party such as a Moody’s Rating Analyst why property tax revenue in the General Fund goes up and down so significantly from year-to-year.
- When staff, mostly within Finance, respond to surveys and inquiries about the City’s finances most questions are about the size and scope of the General Fund. Staff spends time to determine what the real questions are and then pulls the data that is actually being asked for or explains that multiple funds are taken to the single fund view during the budget process, the allocation of property taxes between funds that varies each year, etc.
- The separate fund financial plans seem to lead people to expect that the property tax revenue projections are “real” numbers and can be relied on to stay as projected for future planning periods. Finance Department staff knows that those numbers are likely to change significantly in the next budget cycle to keep all funds in balance, but that is a hard message to convey to others.

The positive aspects of using the four separate funds include:

- People and entities who want to be sure specific, dedicated revenue streams are being used for the operational area identified can most easily see that in the separate fund financial plans.
- For some people, the separate funds increase the transparency of the City’s financial operations because of existing reports (i.e., Quarterly Operating Report income statements) that show the revenues and expenses within the fund that are focused on a specific operational area.
- The Parks & Recreation, Fire, and Library departments have interested parties who are used to looking at the identified fund’s financial plan which do not include what some may consider the “extraneous” information of other operational area’s revenues and expenditures.
- Having been in place for nearly 20 years, the separate funds are the system most staff members know, with very few current staff members remembering when these operations were all in the General Fund.

Staff recognizes that there is no perfect solution that addresses the challenges of managing property taxes and other non-dedicated resources while keeping all of the current positive aspects of the financial management system. However, if all of these operations were in the General Fund, there are tools that can be used to effectively address some of the biggest benefits of the separate funds while also streamlining operations, financial reporting, and common perceptions of the City’s General Fund. For example, tables

and reports showing dedicated revenues against expenditures and the “draw” on non-dedicated revenues for each Department in the General Fund can be developed and presented in the annual budget. An example of such a table is below:

| Department A | Fiscal Year Ending | | | | |
|---|--------------------|------------------|------------------|------------------|------------------|
| | 2010 | 2011 | 2012 Adopted | 2012 Revised | 2013 |
| Dedicated Revenue: | | | | | |
| Licenses/Fees/Permits | 1,300 | 256,987 | 269,650 | 273,980 | 275,000 |
| Charges for Service | 1,239,687 | 1,325,910 | 1,330,000 | 1,345,020 | 1,350,000 |
| Intergovernmental | 22,300 | 0 | 0 | 7,500 | 0 |
| Fines/Forfeitures | 312 | 152 | 0 | 150 | 150 |
| Misc. | 910 | 3,526 | 3,500 | 3,900 | 3,500 |
| Total Dedicated Revenue | 1,264,509 | 1,586,575 | 1,603,150 | 1,630,550 | 1,628,650 |
| Expenditures by Classification: | | | | | |
| Personnel Services | 2,658,965 | 2,795,663 | 2,968,010 | 2,920,020 | 3,050,650 |
| Materials and Services | 865,400 | 822,657 | 870,360 | 850,110 | 875,000 |
| Capital Outlay | 13,000 | 125,235 | 82,000 | 84,000 | 0 |
| Total Expenditures | 3,537,365 | 3,743,555 | 3,920,370 | 3,854,130 | 3,925,650 |
| Addition to (Use of) of Non-Dedicated Revenue | (2,272,856) | (2,156,980) | (2,317,220) | (2,223,580) | (2,297,000) |

This kind of presentation in the budget would continue to allow users to understand the dedicated sources of revenue for specific departments/functions, and may also help them understand where non-dedicated revenue (property taxes, franchise fees, transient room taxes and state revenue sharing) is being used.

IV. Next Steps

The process to close the three funds and go to a single General Fund is fairly complex. If the Administrative Services Committee and City Council agree with this course of action, the following items will require City Council action:

1. A resolution to close the Parks & Recreation Fund (Attachment 2):
 - a. moving unassigned and assigned balances to the General Fund;
 - b. moving the Committed Reserves for Civic Beautification, Urban Forestry, the Senior Center, and Majestic Theatre to Committed Reserves with the same name and purpose in the General Fund;
 - c. moving the Restricted Reserves for Osborn Aquatic Center, the Senior Center, and Open Space to Restricted Reserves with the same name and purpose in the General Fund; and
 - d. establishing the Parks Systems Development Charge Fund and transferring Restricted Reserve balances associated with Parks SDCs from the Parks & Recreation Fund to the new Parks SDC Fund.
2. A resolution to close the Fire and Rescue Fund, moving balances to the General Fund (Attachment 3).

3. A resolution to close the Library Fund, moving balances, including the Committed Reserve for Library Improvements, to the General Fund (Attachment 4).
4. An ordinance changing CMC 3.09.040 Urban Forestry Fee to be accounted for in the General Fund (Attachment 5).
5. An update to the Council's Financial Policies that removes language regarding the allocation of property taxes (including any changes needed regarding payments to the Arts Center), which will be completed when the Financial Policies are reviewed in January/February.

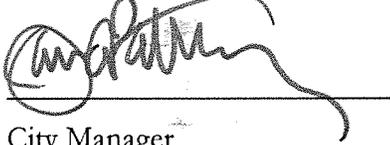
Once these Council-related actions are completed, staff will move forward to prepare the budget, including the General Fund Financial Plan, new tables in the budget showing dedicated revenues, and the required appropriations to close the three funds. Since there will be appropriations required in FY 13-14 to move the balances, the effective date of closure of the funds identified above will be June 30, 2014.

Department Directors have discussed this proposed action and are in agreement with the Finance Department's request to move to a single General Fund.

V. Requested Action

Staff requests the Administrative Services Committee discuss this concept and recommend to the City Council to adopt the attached resolutions and ordinance.

Review and Concur:



City Manager

Attachments

PROPERTY TAX FUNDS - COMBINED

(General, Parks & Recreation, Fire & Library Funds)

| BUDGETARY BASIS | AUDITED FY 09-10 | AUDITED FY 10-11 | ADOPTED FY 11-12 | REVISED FY 11-12 | ADOPTED FY 12-13 | FY 13-14 | FY 14-15 |
|---|----------------------|---------------------|---------------------|---------------------|----------------------|----------------------|----------------------|
| RECURRING REVENUE | | | | | | | |
| Property Taxes | \$18,542,817 | \$19,730,852 | \$20,274,090 | \$20,420,530 | \$21,002,640 | \$21,727,530 | \$22,577,720 |
| Other Taxes | 1,079,621 | 1,190,725 | 1,151,190 | 1,214,860 | 1,270,650 | 1,296,060 | 1,321,980 |
| Licenses, Fees & Permits | 5,296,597 | 5,475,025 | 5,618,580 | 5,660,460 | 5,698,610 | 5,708,140 | 5,788,930 |
| Charges for Services | 5,116,360 | 5,349,585 | 5,470,200 | 5,524,850 | 5,832,870 | 5,942,250 | 6,054,240 |
| Intergovernmental | 3,405,511 | 3,511,790 | 3,894,130 | 3,643,560 | 3,708,770 | 3,829,250 | 3,954,080 |
| Fines & Forfeitures | 661,414 | 809,652 | 976,510 | 829,030 | 830,110 | 838,210 | 846,390 |
| Miscellaneous | 444,785 | 271,601 | 277,380 | 241,400 | 337,350 | 344,760 | 366,340 |
| Non-Operating Revenue | 0 | 0 | 1,790,000 | 1,779,600 | 1,865,350 | 1,917,070 | 23,320 |
| TOTAL RECURRING REVENUE | \$34,547,104 | \$36,339,231 | \$39,452,080 | \$39,314,290 | \$40,546,350 | \$41,603,270 | \$40,933,000 |
| EXPENDITURES | | | | | | | |
| City Manager's Office | \$0 | \$0 | \$0 | \$0 | \$300,000 | \$301,490 | \$303,020 |
| Community Development | 1,441,999 | 1,449,820 | 1,356,480 | 1,328,480 | 1,311,410 | 1,375,680 | 1,401,990 |
| Finance | 585,189 | 576,402 | 677,700 | 677,350 | 629,740 | 654,890 | 670,520 |
| Fire | 9,728,138 | 10,108,279 | 10,665,080 | 10,664,740 | 10,412,910 | 10,809,520 | 10,882,330 |
| Library | 5,846,631 | 5,715,349 | 6,353,030 | 6,154,040 | 5,918,010 | 6,173,210 | 6,257,670 |
| Parks & Recreation | 5,504,493 | 5,349,049 | 5,862,860 | 5,808,230 | 5,622,180 | 5,981,860 | 6,063,340 |
| Police | 9,658,935 | 9,843,598 | 10,376,790 | 10,081,730 | 10,109,070 | 10,466,420 | 10,552,040 |
| Public Works | 808,595 | 828,901 | 944,200 | 934,640 | 843,450 | 837,920 | 849,840 |
| Non-Departmental | 1,427,249 | 1,349,829 | 1,315,950 | 1,229,950 | 1,262,100 | 1,299,020 | 1,223,960 |
| Non-Operating Expenditures - Transfers & Debt | 1,434,460 | 1,558,689 | 2,215,810 | 2,215,810 | 2,289,280 | 2,390,440 | 2,496,540 |
| Contingencies | 0 | 0 | 368,290 | 0 | 512,850 | 0 | 0 |
| Contribution to Reserves | 752,658 | 114,341 | 299,800 | 281,421 | 1,330,640 | 1,859,750 | 2,212,410 |
| TOTAL RECURRING EXPENDITURES | \$37,188,347 | \$36,894,257 | \$40,435,990 | \$39,376,391 | \$40,541,640 | \$42,150,200 | \$42,913,660 |
| RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$2,641,243) | (\$555,026) | (\$983,910) | (\$62,101) | \$4,710 | (\$546,930) | (\$1,980,660) |
| NON-RECURRING (ONE-TIME) REVENUE | | | | | | | |
| Special Projects (Grants, Misc., etc.) | \$393,952 | \$427,240 | \$997,690 | \$803,220 | \$566,460 | \$106,500 | \$66,500 |
| Use of Reserves | 356,773 | 220,910 | 951,420 | 858,660 | 495,050 | 354,460 | 1,564,679 |
| Non-Operating Revenue | 12,337 | 383,405 | 146,060 | 121,000 | 980,000 | 872,100 | 889,540 |
| TOTAL NON-RECURRING REVENUE | \$763,063 | \$1,031,555 | \$2,095,170 | \$1,782,880 | \$2,041,510 | \$1,333,060 | \$2,520,719 |
| EXPENDITURES | | | | | | | |
| City Manager's Office | \$0 | \$0 | \$0 | \$0 | \$80,000 | \$0 | \$0 |
| Community Development | 11,557 | 402 | 0 | 0 | 0 | 0 | 0 |
| Finance | 29,345 | 0 | 0 | 0 | 0 | 0 | 0 |
| Fire | 1,312,637 | 304,874 | 719,750 | 594,060 | 36,810 | 29,320 | 1,193,260 |
| Library | 261,668 | 192,088 | 103,500 | 145,260 | 105,500 | 122,500 | 134,450 |
| Parks & Recreation | 146,605 | 92,217 | 233,640 | 196,080 | 305,950 | 177,280 | 165,720 |
| Police | 319,632 | 71,198 | 125,390 | 176,720 | 243,150 | 136,530 | 179,730 |
| Public Works | 70,256 | 116,166 | 698,560 | 300,140 | 375,450 | 11,840 | 0 |
| Non-Departmental | 60,350 | 74,212 | 0 | 50,000 | 100,000 | 90,000 | 0 |
| Non-Operating Expenditures - Transfers | 393,759 | 118,300 | 366,060 | 108,500 | 960,500 | 1,310,100 | 1,184,540 |
| Non-Recurring Contribution to Fund Balance Reserve | 0 | 0 | 0 | 0 | 1,308,289 | 0 | 0 |
| TOTAL NON-RECURRING EXPENDITURES | \$2,605,809 | \$969,457 | \$2,246,900 | \$1,570,760 | \$3,515,649 | \$1,877,570 | \$2,857,700 |
| NON-RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$1,842,746) | \$62,098 | (\$151,730) | \$212,120 | (\$1,474,139) | (\$544,510) | (\$336,981) |
| POTENTIAL BEGINNING BUDGETARY FUND BALANCE | \$6,296,376 | \$1,812,388 | \$1,380,486 | \$1,319,459 | \$1,469,479 | \$50 | (\$1,091,390) |
| <i>Net Recurring Revenue/Expenditure</i> | (2,641,243) | (555,026) | (983,910) | (62,101) | 4,710 | (546,930) | (1,980,660) |
| <i>Net Non-Recurring Revenue/Expenditure</i> | (1,842,746) | 62,098 | (151,730) | 212,120 | (1,474,139) | (544,510) | (336,981) |
| ENDING BUDGETARY FUND BALANCE | \$1,812,388 | \$1,319,459 | \$244,846 | \$1,469,479 | \$50 | (\$1,091,390) | (\$3,409,032) |

PROPERTY TAX FUNDS - OPERATING RESERVED BALANCES

(General, Parks & Recreation, Fire & Library Funds)

| BUDGETARY BASIS | AUDITED FY 09-10 | AUDITED FY 10-11 | ADOPTED FY 11-12 | REVISED FY 11-12 | ADOPTED FY 12-13 | FY 13-14 | FY 14-15 |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|--------------------|--------------------|
| RESERVED BALANCES, Beginning of Year | \$2,405,922 | \$2,912,257 | \$3,570,943 | \$3,995,620 | \$3,802,101 | \$5,058,917 | \$6,686,817 |
| <u>Contributions to Reserves</u> | | | | | | | |
| Revenue Received (1) | \$18,780 | \$34,695 | \$0 | \$0 | \$34,500 | \$0 | \$0 |
| Other Revenues (2) | 262,767 | 103,856 | 161,240 | 142,861 | 155,300 | 161,470 | 162,780 |
| Contributions (3) | 471,111 | (24,210) | 138,560 | 138,560 | 510,840 | 753,280 | 789,630 |
| Contribution to Fund Balance Reserve (4) | 0 | 0 | 0 | 0 | 630,000 | 945,000 | 1,260,000 |
| Total Contribution to Reserves | \$752,658 | \$114,341 | \$299,800 | \$281,421 | \$1,330,640 | \$1,859,750 | \$2,212,410 |
| Non-Recurring Contribution to FB Reserve (5) | 0 | 0 | 0 | 0 | 1,308,289 | 0 | 0 |
| Component Fund net activity (6) | 110,451 | 1,189,931 | (125,578) | 383,720 | (887,063) | 122,610 | 284,160 |
| Total Increase to Reserves | \$863,109 | \$1,304,273 | \$174,222 | \$665,141 | \$1,751,866 | \$1,982,360 | \$2,496,570 |
| <u>Use of Reserves</u> | | | | | | | |
| Fire (Vehicle-Assigned) | \$0 | (\$4,564) | \$503,180 | \$477,630 | \$0 | \$0 | \$1,126,470 |
| Library (Vehicle-Assigned) | 44,522 | 118,696 | 81,500 | 52,200 | 83,500 | 73,500 | 117,719 |
| Parks & Rec (Vehicle-Assigned) | 11,290 | 20,590 | 49,630 | 39,630 | 29,060 | 63,760 | 56,590 |
| Police (Vehicle-Assigned) | 187,671 | 0 | 63,450 | 56,220 | 194,440 | 116,700 | 172,950 |
| Total Vehicle-Assigned | \$243,483 | \$134,722 | \$697,760 | \$625,680 | \$307,000 | \$253,960 | \$1,473,729 |
| Parks & Rec (Restricted) (7) | \$17,539 | \$26,745 | \$27,070 | \$7,070 | \$42,000 | \$10,500 | \$0 |
| Parks & Rec (Committed) | 10,558 | 14,912 | 136,300 | 123,150 | 97,040 | 6,500 | 7,450 |
| Police (Restricted) | 55,194 | 0 | 0 | 12,470 | 3,010 | 0 | 0 |
| Public Works (Restricted) (1) | 0 | 0 | 24,900 | 24,900 | 0 | 37,500 | 37,500 |
| Public Works (Committed) | 30,000 | 44,530 | 65,390 | 65,390 | 46,000 | 46,000 | 46,000 |
| Total Restricted-Committed | \$113,290 | \$86,188 | \$253,660 | \$232,980 | \$188,050 | \$100,500 | \$90,950 |
| Total Decrease to Reserves | \$356,773 | \$220,910 | \$951,420 | \$858,660 | \$495,050 | \$354,460 | \$1,564,679 |
| RESERVED BALANCES, End of Year | \$2,912,257 | \$3,995,620 | \$2,793,745 | \$3,802,101 | \$5,058,917 | \$6,686,817 | \$7,618,708 |
| <u>Ending Reserve Balance by Type</u> | | | | | | | |
| RESTRICTED | \$628,123 | \$1,823,618 | \$1,232,072 | \$2,160,568 | \$1,291,125 | \$1,363,395 | \$1,606,685 |
| COMMITTED | 1,265,947 | 1,253,761 | 1,140,873 | 1,160,362 | 1,081,292 | 1,124,402 | 1,168,902 |
| ASSIGNED | 1,018,188 | 918,241 | 420,799 | 481,171 | 748,211 | 1,315,731 | 699,832 |
| FUND BALANCE | 0 | 0 | 0 | 0 | 1,938,289 | 2,883,289 | 4,143,289 |
| | \$2,912,257 | \$3,995,620 | \$2,793,745 | \$3,802,101 | \$5,058,917 | \$6,686,817 | \$7,618,708 |

(1) Current year recurring revenues net of current year recurring expenditures for dedicated reserves such as PEG-Inet, depending on net balance, reflected either as revenue or expenditure.

(2) Other revenues are primarily interest on investments on restricted reserves and donations that are not expended in the year received, but are committed to a specific purpose.

(3) These contributions, which are typically for vehicle and equipment reserves, come from operations and show as an unappropriated expenditure on the presentation page.

(4) A Council-Policy driven portion of Ptax Fund Combined fund balance will be set aside annually for the next five years to achieve build-up of sustainable reserves level. Additionally, in any year where a surplus total fund balance is projected after the 'non-recurring' revenues/expenditures are taken into account, that amount will be considered for addition on a one-time basis as a non-recurring contribution to attaining the policy reserves more quickly.

(5) The FY 12-13 additional set-aside for the fund balance reserve is derived primarily from prior year ending fund balance.

(6) Revenues from all component funds, such as Library Improvement, System development charges, Open Space donations/interest earnings are shown here, net of any expenditure activity to balance ending reserves. Note that these reserves are not part of the presentation page activity, since the programs thereunder have no property tax implications.

(7) Restricted reserves for Aquatic Center Building and Senior Center Reserve. Activity for SDC and Open Space not included here, but netted with revenue in contributions section above, since this "use" of reserves does not pertain to P&R operations.

FINANCIAL PLANNING ISSUES

Combined, the services in the property tax supported funds receive nearly 56% of their funding from permanent rate and local option property taxes levied by the City. The Corvallis-Benton County Library Service District and the Corvallis Rural Fire Protection District are two separate taxing entities which contract for services with the City of Corvallis. When monies received from these two sources are included, the total support from property taxes is slightly more than 64%.

Other major revenues in the property tax supported funds are from Franchise Fees, State Revenue Sharing, Charges for Services, Ambulance Fees, and Grants. Most of these revenues have suffered a decline in recent years, and are expected to decrease again or at best remain stable in FY 12-13. Some increases in revenues in the last two years of the three-year planning period have been projected based on economic forecasts currently available.

GENERAL FUND

| BUDGETARY BASIS | AUDITED FY 09-10 | AUDITED FY 10-11 | ADOPTED FY 11-12 | REVISED FY 11-12 | ADOPTED FY 12-13 | FY 13-14 | FY 14-15 |
|---|----------------------|---------------------|---------------------|---------------------|----------------------|---------------------|---------------------|
| RECURRING REVENUE | | | | | | | |
| Property Taxes | \$4,898,889 | \$4,979,073 | \$5,997,600 | \$6,110,770 | \$7,231,450 | \$7,470,090 | \$7,749,990 |
| Other Taxes | 1,079,621 | 1,190,725 | 1,151,190 | 1,214,860 | 1,270,650 | 1,296,080 | 1,321,980 |
| License, Fees & Permits | 5,227,722 | 5,375,369 | 5,469,650 | 5,512,020 | 5,548,670 | 5,555,380 | 5,633,300 |
| Charges for Services | 585,994 | 675,033 | 738,460 | 746,830 | 808,710 | 833,220 | 858,500 |
| Intergovernmental | 1,161,104 | 1,162,097 | 1,484,890 | 1,213,890 | 1,250,000 | 1,272,990 | 1,296,440 |
| Fines & Forfeitures | 573,806 | 697,994 | 871,700 | 718,130 | 716,110 | 723,160 | 730,280 |
| Miscellaneous | 95,563 | 134,139 | 117,240 | 120,830 | 220,470 | 237,150 | 258,650 |
| Non-Operating Revenue | 0 | 0 | 102,870 | 102,870 | 106,840 | 110,040 | 980 |
| TOTAL RECURRING REVENUE | \$13,622,700 | \$14,214,430 | \$15,913,600 | \$15,740,200 | \$17,152,900 | \$17,498,090 | \$17,850,120 |
| EXPENDITURES | | | | | | | |
| City Manager's Office | \$0 | \$0 | \$0 | \$0 | \$300,000 | \$301,490 | \$303,020 |
| Community Development | 1,441,999 | 1,449,820 | 1,358,480 | 1,328,480 | 1,311,410 | 1,375,680 | 1,401,990 |
| Finance | 585,189 | 576,402 | 677,700 | 677,350 | 629,740 | 654,890 | 670,520 |
| Police | 9,658,935 | 9,843,598 | 10,376,790 | 10,081,730 | 10,109,070 | 10,466,420 | 10,552,040 |
| Public Works | 808,595 | 828,901 | 944,200 | 934,640 | 843,450 | 837,920 | 849,840 |
| Non-Departmental | 1,427,249 | 1,349,829 | 1,315,950 | 1,229,950 | 1,262,100 | 1,299,020 | 1,223,960 |
| Non-Operating Expenditures - Transfers & Debt | 541,910 | 611,149 | 1,058,270 | 1,058,270 | 1,101,440 | 1,143,620 | 1,187,790 |
| Contingencies | 0 | 0 | 148,700 | 0 | 224,880 | 0 | 0 |
| Contribution to Reserves | 182,795 | 35,922 | 25,000 | 25,000 | 289,230 | 372,250 | 451,000 |
| TOTAL RECURRING EXPENDITURES | \$14,646,672 | \$14,695,621 | \$15,903,090 | \$15,335,420 | \$16,071,300 | \$16,451,290 | \$16,640,160 |
| RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$1,023,972) | (\$481,191) | \$10,510 | \$404,780 | \$1,081,600 | \$1,046,800 | \$1,209,960 |
| NON-RECURRING (ONE-TIME) REVENUE | | | | | | | |
| Special Projects (Grants, Misc., etc.) | \$186,341 | \$209,772 | \$731,940 | \$518,380 | \$443,630 | \$40,000 | \$0 |
| Use of Reserves (Contributions) | 272,865 | 44,530 | 153,740 | 158,980 | 243,450 | 200,200 | 256,450 |
| Non-Operating Revenue | 6,396 | 349,452 | 10,000 | 11,000 | 855,000 | 872,100 | 889,540 |
| TOTAL NON-RECURRING REVENUE | \$465,602 | \$603,753 | \$895,680 | \$688,360 | \$1,542,080 | \$1,112,300 | \$1,145,990 |
| EXPENDITURES | | | | | | | |
| City Manager's Office | \$0 | \$0 | \$0 | \$0 | \$80,000 | \$0 | \$0 |
| Community Development | 11,557 | 402 | 0 | 0 | 0 | 0 | 0 |
| Finance | 29,345 | 0 | 0 | 0 | 0 | 0 | 0 |
| Police | 319,632 | 71,198 | 125,390 | 176,720 | 243,150 | 136,530 | 179,730 |
| Public Works | 70,256 | 116,166 | 698,560 | 300,140 | 375,450 | 11,840 | 0 |
| Non-Departmental | 80,350 | 74,212 | 0 | 50,000 | 100,000 | 90,000 | 0 |
| Non-Operating Expenditures - Transfers | 100,000 | 118,300 | 36,000 | 22,000 | 855,000 | 906,100 | 1,109,540 |
| Non-recurring Contribution to Fund Balance Reserve | 0 | 0 | 0 | 0 | 1,308,289 | 0 | 0 |
| TOTAL NON-RECURRING EXPENDITURES | \$591,140 | \$380,278 | \$859,950 | \$548,860 | \$2,961,884 | \$1,144,470 | \$1,289,270 |
| NON-RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$125,538) | \$223,476 | \$36,730 | \$139,500 | (\$1,419,809) | (\$32,170) | (\$143,280) |
| POTENTIAL BEGINNING BUDGETARY FUND BALANCE | | | | | | | |
| Net Recurring Revenue/Expenditure | \$1,201,158 | \$51,648 | \$8,998 | (\$206,068) | \$338,212 | \$3 | \$1,014,633 |
| Net Non-Recurring Revenue/Expenditure | (1,023,972) | (481,191) | 10,510 | 404,780 | 1,081,600 | 1,046,800 | 1,209,960 |
| | (125,538) | 223,476 | 35,730 | 139,500 | (1,419,809) | (32,170) | (143,280) |
| ENDING BUDGETARY FUND BALANCE | \$51,648 | (\$206,068) | \$55,238 | \$338,212 | \$3 | \$1,014,633 | \$2,081,313 |

PARK AND RECREATION FUND - COMBINED

| BUDGETARY BASIS | AUDITED FY 09-10 | AUDITED FY 10-11 | ADOPTED FY 11-12 | REVISED FY 11-12 | ADOPTED FY 12-13 | FY 13-14 | FY 14-15 |
|---|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|----------------------|
| RECURRING REVENUE | | | | | | | |
| Property Taxes | \$3,809,025 | \$3,971,633 | \$3,808,700 | \$3,817,570 | \$3,303,940 | \$3,420,600 | \$3,557,420 |
| Licenses, Fees & Permits | 50,083 | 78,494 | 131,300 | 131,300 | 131,300 | 133,930 | 136,610 |
| Charges for Services | 1,337,023 | 1,360,072 | 1,412,570 | 1,412,360 | 1,531,140 | 1,559,920 | 1,589,250 |
| Intergovernmental | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 |
| Fines & Forfeitures | 1,004 | 228 | 100 | 100 | 250 | 250 | 250 |
| Miscellaneous | 282,901 | 97,204 | 96,890 | 84,240 | 78,550 | 77,640 | 74,810 |
| Non-Operating Revenue | 0 | 0 | 720,400 | 720,400 | 749,150 | 771,620 | 6,850 |
| TOTAL RECURRING REVENUE | \$5,487,436 | \$5,515,031 | \$6,177,360 | \$6,173,370 | \$5,801,730 | \$5,971,360 | \$5,372,590 |
| EXPENDITURES | | | | | | | |
| Parks and Recreation | \$5,504,493 | \$5,349,049 | 5,862,860 | \$5,808,230 | \$5,622,180 | \$5,981,860 | \$6,063,340 |
| Non-Operating Expenditures - Debt Transfers | 187,510 | 189,940 | 125,840 | 125,840 | 116,210 | 121,610 | 127,280 |
| Contingencies | 0 | 0 | 57,770 | 0 | 67,390 | 0 | 0 |
| Contributions to Reserves | 221,868 | 22,522 | 103,140 | 99,211 | 309,210 | 409,520 | 489,580 |
| TOTAL RECURRING EXPENDITURES | \$5,913,871 | \$5,561,511 | \$6,149,610 | \$6,033,281 | \$6,114,990 | \$6,512,990 | \$6,680,200 |
| RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$426,434) | (\$46,480) | \$27,750 | \$140,089 | (\$313,260) | (\$541,630) | (\$1,307,610) |
| NON-RECURRING (ONE-TIME) REVENUE | | | | | | | |
| Special Projects (Grants, Misc., etc.) | \$6,971 | \$6,706 | \$26,400 | \$35,900 | \$10,000 | \$10,000 | \$10,000 |
| Use of Reserves | 39,387 | 62,248 | 213,000 | 169,850 | 168,100 | 80,760 | 64,040 |
| Non-Operating Revenue | 1,803 | 16,449 | 136,060 | 75,000 | 95,000 | 0 | 0 |
| TOTAL NON-RECURRING REVENUE | \$48,161 | \$85,402 | \$375,460 | \$280,750 | \$273,100 | \$90,760 | \$74,040 |
| EXPENDITURES | | | | | | | |
| Parks & Recreation | \$146,605 | \$92,217 | \$233,640 | \$196,080 | \$305,950 | \$177,280 | \$165,720 |
| Non-Operating Expenditures - CIP Transfers | 293,759 | 0 | 228,060 | 61,000 | 29,000 | 404,000 | 75,000 |
| TOTAL NON-RECURRING EXPENDITURES | \$440,364 | \$92,217 | \$461,700 | \$257,080 | \$334,950 | \$581,280 | \$240,720 |
| NON-RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$392,203) | (\$6,815) | (\$86,240) | \$23,670 | (\$61,850) | (\$490,520) | (\$166,680) |
| POTENTIAL BEGINNING BUDGETARY FUND BALANCE | \$1,083,308 | \$264,670 | \$139,078 | \$211,375 | \$375,135 | \$25 | (\$1,032,125) |
| <i>Net Recurring Revenue/Expenditure</i> | (426,434) | (46,480) | 27,750 | 140,089 | (313,260) | (541,630) | (1,307,610) |
| <i>Net Non-Recurring Revenue/Expenditure</i> | (392,203) | (6,815) | (86,240) | 23,670 | (61,850) | (490,520) | (166,680) |
| ENDING BUDGETARY FUND BALANCE | \$264,670 | \$211,375 | \$80,588 | \$375,135 | \$25 | (\$1,032,125) | (\$2,506,415) |

FIRE & RESCUE FUND

| BUDGETARY BASIS | AUDITED FY 09-10 | AUDITED FY 10-11 | ADOPTED FY 11-12 | REVISED FY 11-12 | ADOPTED FY 12-13 | FY 13-14 | FY 14-15 |
|---|----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| RECURRING REVENUE | | | | | | | |
| Property Taxes | \$6,827,677 | \$6,842,357 | \$7,821,280 | \$7,839,510 | \$8,332,270 | \$8,626,470 | \$8,971,530 |
| Licenses, Fees & Permits | 18,792 | 21,162 | 17,630 | 17,140 | 18,640 | 18,830 | 19,020 |
| Charges for Services | 3,150,266 | 3,271,140 | 3,272,170 | 3,322,240 | 3,449,600 | 3,505,550 | 3,562,790 |
| Fines & Forfeitures | 12,025 | 17,223 | 12,710 | 9,650 | 8,950 | 8,950 | 8,950 |
| Miscellaneous | 30,512 | 14,209 | 32,240 | 11,210 | 13,130 | 7,320 | 11,680 |
| TOTAL RECURRING REVENUE | \$10,039,272 | \$10,166,092 | \$11,156,030 | \$11,199,750 | \$11,822,590 | \$12,167,120 | \$12,573,970 |
| EXPENDITURES | | | | | | | |
| Fire | \$9,728,138 | \$10,108,279 | \$10,665,080 | \$10,664,740 | \$10,412,910 | \$10,809,520 | \$10,882,330 |
| Non-Operating Expenditures - Transfers & Debt | 480,630 | 521,750 | 920,610 | 920,610 | 955,440 | 1,003,210 | 1,053,370 |
| Contingencies | 0 | 0 | 104,860 | 0 | 157,240 | 0 | 0 |
| Contribution to Reserves | 300,000 | 0 | 103,560 | 103,560 | 493,500 | 755,530 | 870,630 |
| TOTAL RECURRING EXPENDITURES | \$10,508,768 | \$10,630,029 | \$11,794,110 | \$11,688,910 | \$12,019,090 | \$12,568,260 | \$12,806,330 |
| RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$469,496) | (\$463,937) | (\$638,080) | (\$489,160) | (\$196,500) | (\$401,140) | (\$232,360) |
| NON-RECURRING (ONE-TIME) REVENUE | | | | | | | |
| Special Projects (Grants, Misc., etc.) | \$79,177 | \$95,574 | \$182,850 | \$131,990 | \$61,330 | \$0 | \$0 |
| Use of Reserves (Contributions) | 0 | (4,564) | 503,180 | 477,630 | 0 | 0 | 1,126,470 |
| Non-Operating Revenue | 4,138 | 17,505 | 0 | 35,000 | 0 | 0 | 0 |
| TOTAL NON-RECURRING REVENUE | \$83,315 | \$108,515 | \$686,030 | \$644,620 | \$61,330 | \$0 | \$1,126,470 |
| EXPENDITURES | | | | | | | |
| Fire | \$1,312,637 | \$304,874 | \$719,750 | \$594,060 | \$36,810 | \$29,320 | \$1,193,260 |
| Non-Operating Expenditures - Transfers | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL NON-RECURRING EXPENDITURES | \$1,312,637 | \$304,874 | \$719,750 | \$594,060 | \$36,810 | \$29,320 | \$1,193,260 |
| NON-RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$1,229,322) | (\$196,359) | (\$33,720) | \$60,560 | \$24,520 | (\$29,320) | (\$66,790) |
| POTENTIAL BEGINNING BUDGETARY FUND BALANCE | \$2,969,696 | \$1,270,879 | \$726,409 | \$610,582 | \$171,982 | \$2 | (\$430,458) |
| <i>Net Recurring Revenue/Expenditure</i> | <i>(469,496)</i> | <i>(463,937)</i> | <i>(638,080)</i> | <i>(489,160)</i> | <i>(196,500)</i> | <i>(401,140)</i> | <i>(232,360)</i> |
| <i>Net Non-Recurring Revenue/Expenditure</i> | <i>(1,229,322)</i> | <i>(196,359)</i> | <i>(33,720)</i> | <i>50,560</i> | <i>24,520</i> | <i>(29,320)</i> | <i>(66,790)</i> |
| ENDING BUDGETARY FUND BALANCE | \$1,270,879 | \$610,582 | \$54,609 | \$171,982 | \$2 | (\$430,458) | (\$729,608) |

LIBRARY FUND - COMBINED

| BUDGETARY BASIS | AUDITED FY 09-10 | AUDITED FY 10-11 | ADOPTED FY 11-12 | REVISED FY 11-12 | ADOPTED FY 12-13 | FY 13-14 | FY 14-15 |
|---|---------------------|---------------------|---------------------|---------------------|---------------------|--------------------|----------------------|
| RECURRING | | | | | | | |
| REVENUE | | | | | | | |
| Property Taxes | \$3,007,225 | \$3,937,789 | \$2,646,510 | \$2,652,680 | \$2,134,980 | \$2,210,370 | \$2,298,780 |
| Charges for Services | 43,077 | 43,340 | 47,000 | 43,420 | 43,420 | 43,560 | 43,700 |
| Intergovernmental | 2,237,007 | 2,342,293 | 2,421,840 | 2,422,270 | 2,451,370 | 2,548,860 | 2,650,240 |
| Fines & Forfeitures | 74,579 | 94,207 | 92,000 | 101,150 | 104,800 | 105,850 | 106,910 |
| Miscellaneous | 35,808 | 26,049 | 31,010 | 25,120 | 25,200 | 22,650 | 21,200 |
| Non-Operating Revenue | 0 | 0 | 966,730 | 956,330 | 1,009,360 | 1,035,410 | 15,490 |
| TOTAL RECURRING REVENUE | \$5,397,696 | \$6,443,679 | \$6,205,090 | \$6,200,970 | \$5,769,730 | \$5,966,700 | \$5,136,320 |
| EXPENDITURES | | | | | | | |
| Library | \$5,846,631 | \$5,715,349 | \$6,353,030 | \$6,154,040 | \$5,918,010 | \$6,173,210 | \$6,257,670 |
| Non-Operating Expenditures - Transfers & Debt | 224,410 | 235,850 | 111,090 | 111,090 | 116,190 | 122,000 | 128,100 |
| Contingencies | 0 | 0 | 56,960 | 0 | 63,360 | 0 | 0 |
| Contribution to Reserves | 47,995 | 55,897 | 68,100 | 53,650 | 238,700 | 322,450 | 401,200 |
| TOTAL RECURRING EXPENDITURES | \$6,119,036 | \$6,007,096 | \$6,589,180 | \$6,318,780 | \$6,336,260 | \$6,617,660 | \$6,786,970 |
| RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$721,340) | \$436,582 | (\$384,090) | (\$117,810) | (\$567,130) | (\$650,960) | (\$1,650,650) |
| NON-RECURRING (ONE-TIME) | | | | | | | |
| REVENUE | | | | | | | |
| Special Projects (Grants, Misc., etc.) | \$121,463 | \$115,188 | \$56,500 | \$116,950 | \$51,500 | \$56,500 | \$56,500 |
| Use of Reserves | 44,522 | 118,696 | 81,500 | 52,200 | 83,500 | 73,500 | 117,719 |
| Non-Operating Revenue | 0 | 0 | 0 | 0 | 30,000 | 0 | 0 |
| TOTAL NON-RECURRING REVENUE | \$165,985 | \$233,885 | \$138,000 | \$169,150 | \$165,000 | \$130,000 | \$174,219 |
| EXPENDITURES | | | | | | | |
| Library | \$261,668 | \$192,088 | \$103,500 | \$145,260 | \$105,500 | \$122,500 | \$134,450 |
| Non-Operating Expenditures - Transfers | 0 | 0 | 102,000 | 25,500 | 76,500 | 0 | 0 |
| TOTAL NON-RECURRING EXPENDITURES | \$261,668 | \$192,088 | \$205,500 | \$170,760 | \$182,000 | \$122,500 | \$134,450 |
| NON-RECURRING REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES | (\$95,683) | \$41,796 | (\$67,500) | (\$1,610) | (\$17,000) | \$7,500 | \$39,769 |
| POTENTIAL BEGINNING BUDGETARY FUND BALANCE | \$1,042,214 | \$225,191 | \$506,001 | \$703,570 | \$584,150 | \$20 | (\$643,440) |
| <i>Net Recurring Revenue/Expenditure</i> | <i>(721,340)</i> | <i>436,582</i> | <i>(384,090)</i> | <i>(117,810)</i> | <i>(567,130)</i> | <i>(650,960)</i> | <i>(1,650,650)</i> |
| <i>Net Non-Recurring Revenue/Expenditure</i> | <i>(95,683)</i> | <i>41,796</i> | <i>(67,500)</i> | <i>(1,610)</i> | <i>(17,000)</i> | <i>7,500</i> | <i>39,769</i> |
| ENDING BUDGETARY FUND BALANCE | \$225,191 | \$703,570 | \$54,411 | \$584,150 | \$20 | (\$643,440) | (\$2,254,322) |

RESOLUTION 2013 - _____

A RESOLUTION THAT CREATES THE PARKS SYSTEMS DEVELOPMENT CHARGE FUND, CLOSES THE PARKS & RECREATION FUND, AND TRANSFERS BALANCES.

Minutes of the January 22, 2013 meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS the City Council has the authority to establish and close funds; and

WHEREAS the City Council had established the Parks & Recreation Fund when the City had dedicated property tax levies for Parks and for Recreation programs; and

WHEREAS the statewide implementation of Ballot Measures 47 (1996) and 50 (1997) preempted the City's own dedicated property taxes in favor of a single tax rate; and

WHEREAS the City Council has continued to manage the Parks & Recreation Fund as a separate fund with varying amounts of property taxes used to support operations each year; and

WHEREAS the complexity of managing the property tax allocation has grown over time and is no longer supportable; and

WHEREAS the City Council finds that it is in the public's interest to close the Parks & Recreation Fund and transfer its balances so that the operations of the City's Parks and Recreation programs are accounted for within the General Fund; and

WHEREAS the City Council finds that it is in the public's interest to establish a new fund titled the Parks System Development Charge Fund to account for the resources and uses of Parks Systems Development Charge payments; and

WHEREAS closing the Parks & Recreation Fund will require transferring balances from the existing Parks & Recreation Fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS HEREBY RESOLVES to create the Parks SDC Fund effective July 1, 2013 to account for the resources and uses associated with Parks Systems Development Charge Fees; and

BE IT FURTHER RESOLVED that the City Council has determined it is in the best interest of the City to close the Parks & Recreation Fund effective June 30, 2014, and to transfer balances within that fund as follows:

1. Committed Reserves for Civic Beautification, Urban Forestry, the Senior Center, and Majestic Theatre shall be transferred from the Parks & Recreation Fund to be Committed Reserves with the same titles and commitments in the General Fund; and
2. Restricted Reserves for Osborn Aquatic Center, the Senior Center, and Open Space shall be transferred from the Parks & Recreation Fund to Restricted Reserves with the same titles and restrictions in the General Fund; and

3. Restricted Reserves for Parks Systems Development Charges shall be transferred from the Parks & Recreation Fund to the Parks SDC Fund; and
4. All remaining balances shall be transferred from the Parks & Recreation Fund to the General Fund as assigned or unassigned fund balance.

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

RESOLUTION 2013 - _____

A RESOLUTION TO CLOSE THE FIRE AND RESCUE FUND AND TRANSFER BALANCES.

Minutes of the January 22, 2013 meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS the City Council has the authority to establish and close funds; and

WHEREAS the City Council had established the Fire and Rescue Fund when the City had dedicated property tax levies for the Fire Department; and

WHEREAS the statewide implementation of Ballot Measures 47 (1996) and 50 (1997) pre-empted the City's own dedicated property taxes in favor of a single tax rate; and

WHEREAS the City Council has continued to manage the Fire and Rescue Fund as a separate fund with varying amounts of property taxes used to support operations each year even though the Charter requirements were pre-empted; and

WHEREAS the complexity of managing the property tax allocation has grown over time and is no longer supportable; and

WHEREAS the City Council finds that it is in the public's interest to close the Fire and Rescue Fund and transfer its balances so that the operations of the City's Fire department are accounted for within the General Fund; and

WHEREAS closing the Fire and Rescue Fund will require transferring balances from the existing Fire and Rescue Fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS HEREBY RESOLVES it is in the best interest of the City to close the Fire and Rescue Fund effective June 30, 2014, and to transfer balances within that fund to the General Fund.

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

RESOLUTION 2013 - _____

A RESOLUTION TO CLOSE THE LIBRARY FUND AND TRANSFER BALANCES.

Minutes of the January 22, 2013 meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS the City Council has the authority to establish and close funds; and

WHEREAS the City Council had established the Library Fund when the City entered into the intergovernmental relationship with the Library Service District; and

WHEREAS the City Council had transferred a portion of the City's property tax revenue to the Library Fund each year to complete funding for Library services; and

WHEREAS the City Council has managed the Library Fund as a separate fund with varying amounts of property taxes used to support operations each year; and

WHEREAS the complexity of managing the property tax allocation has grown over time and is no longer supportable; and

WHEREAS the City Council finds that it is in the public's interest to close the Library Fund and transfer its balances so that the operations of the City's Library Department are accounted for within the General Fund; and

WHEREAS closing the Library Fund will require transferring balances from the existing Library Fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS HEREBY RESOLVES it is in the best interest of the City to close the Library Fund effective June 30, 2014, and to transfer balances within that fund to the General Fund as follows:

1. Committed Reserves for Library Improvements shall be transferred from the Library Fund to be Committed Reserves with the same title and commitments in the General Fund; and
2. All remaining balances shall be transferred from the Library Fund to the General Fund as unassigned fund balance.

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

ORDINANCE 2013-

AN ORDINANCE RELATING TO FUNDS, AMENDING MUNICIPAL CODE CHAPTER 3.09 "URBAN FOREST MANAGEMENT FEE," AS AMENDED, AND STATING AN EFFECTIVE DATE

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 3.09 is hereby amended as follows:

Section 3.09.040 Urban Forest Management Fee - Revenue

1) All funds collected pursuant to this chapter shall be deposited in the City's Parks & Recreation General Fund. The portion of the General Parks & Recreation Fund that represents the fees collected under this chapter during a given year and fees carried over from prior years, if any, shall be used to administer a portion of the City's Urban Forest program as described in the Urban Forest Management Plan.

2) The operations, administration and maintenance expenditures from the Parks & Recreation General Fund for the Urban Forest Management Program shall be used for the urban forest and may not specifically relate to any particular property from which the fees for such purposes were collected.

3) The fees collected pursuant to this chapter shall not be used for general or other governmental proprietary purposes of the City, except to pay for management activities for City's Urban Forest

4) Excluded use of revenue. The Urban Forest Management Fee will not be used to fund any of the following:

a) Maintenance on or replacement of trees within the public rights-of-way, if those trees are clearly identified on a City-approved set of landscape plans associated with a land use approval or building permit and where the trees are still under the warranty period as specified in chapter 4.2 of the Corvallis Land Development Code, so that developers continue to meet their Land Development Code 90% coverage obligations.

b) Initial installation of street trees required as part of or associated with development in accordance with 4.2 of the Land Development Code.

c) Any activity on trees on Oregon State University campus.

d) Any activity on trees on private property.

(Ord. 2013- §1. /2012 Ord. 2010-32 §1, 12/20/2010)

Section 2. This ordinance shall become effective on July 1, 2013.

PASSED by the City Council this _____ day of _____, 2013.

APPROVED by the Mayor this _____ day of _____, 2013.

EFFECTIVE this _____ day of _____, 2013.

Mayor

ATTEST:

City Recorder

RESOLUTION 2013 - _____

A RESOLUTION THAT CREATES THE PARKS SYSTEMS DEVELOPMENT CHARGE FUND, CLOSES THE PARKS & RECREATION FUND, AND TRANSFERS BALANCES.

Minutes of the February 4, 2013 meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS the City Council has the authority to establish and close funds; and

WHEREAS the City Council had established the Parks & Recreation Fund when the City had dedicated property tax levies for Parks and for Recreation programs; and

WHEREAS the statewide implementation of Ballot Measures 47 (1996) and 50 (1997) preempted the City's own dedicated property taxes in favor of a single tax rate; and

WHEREAS the City Council has continued to manage the Parks & Recreation Fund as a separate fund with varying amounts of property taxes used to support operations each year; and

WHEREAS the complexity of managing the property tax allocation has grown over time and is no longer supportable; and

WHEREAS the City Council finds that it is in the public's interest to close the Parks & Recreation Fund and transfer its balances so that the operations of the City's Parks and Recreation programs are accounted for within the General Fund; and

WHEREAS the City Council finds that it is in the public's interest to establish a new fund titled the Parks System Development Charge Fund to account for the resources and uses of Parks Systems Development Charge payments; and

WHEREAS closing the Parks & Recreation Fund will require transferring balances from the existing Parks & Recreation Fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS HEREBY RESOLVES to create the Parks SDC Fund effective July 1, 2013 to account for the resources and uses associated with Parks Systems Development Charge Fees; and

BE IT FURTHER RESOLVED that the City Council has determined it is in the best interest of the City to close the Parks & Recreation Fund effective June 30, 2014, and to transfer balances within that fund as follows:

1. Committed Reserves for Civic Beautification, Urban Forestry, the Senior Center, and Majestic Theatre shall be transferred from the Parks & Recreation Fund to be Committed Reserves with the same titles and commitments in the General Fund; and
2. Restricted Reserves for Osborn Aquatic Center, the Senior Center, and Open Space shall be transferred from the Parks & Recreation Fund to Restricted Reserves with the same titles and restrictions in the General Fund; and

3. Restricted Reserves for Parks Systems Development Charges shall be transferred from the Parks & Recreation Fund to the Parks SDC Fund; and
4. All remaining balances shall be transferred from the Parks & Recreation Fund to the General Fund as assigned or unassigned fund balance.

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

RESOLUTION 2013 - _____

A RESOLUTION TO CLOSE THE FIRE AND RESCUE FUND AND TRANSFER BALANCES.

Minutes of the February 4, 2013 meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS the City Council has the authority to establish and close funds; and

WHEREAS the City Council had established the Fire and Rescue Fund when the City had dedicated property tax levies for the Fire Department; and

WHEREAS the statewide implementation of Ballot Measures 47 (1996) and 50 (1997) pre-empted the City's own dedicated property taxes in favor of a single tax rate; and

WHEREAS the City Council has continued to manage the Fire and Rescue Fund as a separate fund with varying amounts of property taxes used to support operations each year even though the Charter requirements were pre-empted; and

WHEREAS the complexity of managing the property tax allocation has grown over time and is no longer supportable; and

WHEREAS the City Council finds that it is in the public's interest to close the Fire and Rescue Fund and transfer its balances so that the operations of the City's Fire department are accounted for within the General Fund; and

WHEREAS closing the Fire and Rescue Fund will require transferring balances from the existing Fire and Rescue Fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS HEREBY RESOLVES it is in the best interest of the City to close the Fire and Rescue Fund effective June 30, 2014, and to transfer balances within that fund to the General Fund.

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

RESOLUTION 2013 - _____

A RESOLUTION TO CLOSE THE LIBRARY FUND AND TRANSFER BALANCES.

Minutes of the February 4, 2013 meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS the City Council has the authority to establish and close funds; and

WHEREAS the City Council had established the Library Fund when the City entered into the intergovernmental relationship with the Library Service District; and

WHEREAS the City Council had transferred a portion of the City's property tax revenue to the Library Fund each year to complete funding for Library services; and

WHEREAS the City Council has managed the Library Fund as a separate fund with varying amounts of property taxes used to support operations each year; and

WHEREAS the complexity of managing the property tax allocation has grown over time and is no longer supportable; and

WHEREAS the City Council finds that it is in the public's interest to close the Library Fund and transfer its balances so that the operations of the City's Library Department are accounted for within the General Fund; and

WHEREAS closing the Library Fund will require transferring balances from the existing Library Fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS HEREBY RESOLVES it is in the best interest of the City to close the Library Fund effective June 30, 2014, and to transfer balances within that fund to the General Fund as follows:

1. Committed Reserves for Library Improvements shall be transferred from the Library Fund to be Committed Reserves with the same title and commitments in the General Fund; and
2. All remaining balances shall be transferred from the Library Fund to the General Fund as unassigned fund balance.

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

ORDINANCE 2013-

**AN ORDINANCE RELATING TO FUNDS, AMENDING MUNICIPAL CODE CHAPTER 3.09
"URBAN FOREST MANAGEMENT FEE," AS AMENDED, AND STATING AN EFFECTIVE DATE**

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 3.09 is hereby amended as follows:

Section 3.09.040 Urban Forest Management Fee - Revenue

1) All funds collected pursuant to this chapter shall be deposited in the City's General Fund. The portion of the General Fund that represents the fees collected under this chapter during a given year and fees carried over from prior years, if any, shall be used to administer a portion of the City's Urban Forest program as described in the Urban Forest Management Plan.

2) The operations, administration and maintenance expenditures from the General Fund for the Urban Forest Management Program shall be used for the urban forest and may not specifically relate to any particular property from which the fees for such purposes were collected.

3) The fees collected pursuant to this chapter shall not be used for general or other governmental proprietary purposes of the City, except to pay for management activities for City's Urban Forest

4) Excluded use of revenue. The Urban Forest Management Fee will not be used to fund any of the following:

a) Maintenance on or replacement of trees within the public rights-of-way, if those trees are clearly identified on a City-approved set of landscape plans associated with a land use approval or building permit and where the trees are still under the warranty period as specified in chapter 4.2 of the Corvallis Land Development Code, so that developers continue to meet their Land Development Code 90% coverage obligations.

b) Initial installation of street trees required as part of or associated with development in accordance with 4.2 of the Land Development Code.

c) Any activity on trees on Oregon State University campus.

d) Any activity on trees on private property.

(Ord. 2013-__ §1, ___/2012Ord. 2010-32 §1, 12/20/2010)

Section 2. This ordinance shall become effective on July 1, 2013.

PASSED by the City Council this _____ day of _____, 2013.

APPROVED by the Mayor this _____ day of _____, 2013.

EFFECTIVE this _____ day of _____, 2013.

Mayor

ATTEST:

City Recorder

MEMORANDUM

TO: Mayor and City Council
FROM: Mary Steckel, Public Works Director 
DATE: January 16, 2013
SUBJECT: Local Agency Certification Program Agreement

ISSUE

City Council approval is required to authorize the City Manager to sign Local Agency Certification Agreement No. 29008 with the Oregon Department of Transportation (ODOT).

BACKGROUND

ODOT has developed a program to provide a process for local agencies to become "certified" in various areas of federal-aid project delivery. Certification allows local agencies to retain more approval authority and control at the local level when developing federally-funded transportation projects. On April 6, 2009, the City Council authorized the City Manager to execute a conditional Certification Agreement No. 25611 for federal-aid project delivery with ODOT. Full certification was contingent upon the City completing 10 test projects. The City has successfully completed all 10 test projects and on April 18, 2011, became the first local agency in Oregon to be fully certified by ODOT to perform design, contract bid and award, construction and contract administration for federal-aid transportation projects. The City Council, on March 5, 2012, adopted resolution 2012-07 and authorized the City Manager to execute Local Agency Certification Agreement No. 27077, which recognizes the City's status as fully certified.

DISCUSSION

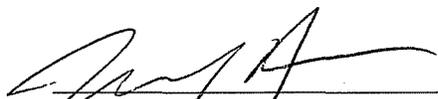
The attached Agreement No. 29008 replaces the previously executed Agreement No. 27077. The conditions contained in both agreements are substantially the same. The new agreement allows the City to use the City's General Conditions of the Standard Construction Specifications for federally-funded transportation projects with the state's approval, instead of ODOT's General Conditions.

ACTION REQUESTED

Staff recommends that the City Council adopt the attached Resolution authorizing the City Manager to execute Local Agency Certification Program Agreement No. 29008, and any future amendments related to the agreement.

Review and Concur:


Nancy Brewer, Finance Director 1/17/13 Date


Jim Brewer, City Attorney 1/21/13 Date


James A. Patterson, City Manager 1/22/13 Date

Attachment

RESOLUTION 2013-_____

Minutes of the February 4, 2013, Corvallis City Council meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS, By the authority granted in ORS 190.110 and ORS 283.110, local governments may enter into agreements with the State Agencies for the performance of any and all functions and activities that a party to the agreement, its officers or agents, have authority to perform; and

WHEREAS, the agreement acceptance requires approval by the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES to accept the Local Agency Certification Program Agreement No. 29008 with the Oregon Department of Transportation and authorizes the City Manager to execute the agreement and any future supplementals or amendments relating to the agreement.

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

**Oregon Department of Transportation
LOCAL AGENCY CERTIFICATION PROGRAM AGREEMENT**

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and the City of Corvallis, acting by and through its elected officials, hereinafter referred to as "City," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers or agents, have the authority to perform.
2. Under the authority of Title 23 United States Code (USC), the Federal Highway Administration (FHWA) is accountable for all programs under the Federal-Aid Highway Program; and State is responsible for project-level activities associated with Title 23 USC, Section 106. State, pursuant to the 2010 Oregon Department of Transportation Federal-Aid Highway Program Stewardship and Oversight Plan (Stewardship Plan), is responsible for all reviews and approvals associated with the design, construction, award, and final inspection of federal-aid projects off the National Highway System (NHS) excluding the exceptions noted in said Plan. State, pursuant to Title 23 Code of Federal Regulations (CFR) Part 1.11, Title 23 CFR Part 635.105, and the Stewardship Plan, may further delegate certain federal-aid project authorities to well-qualified and suitably equipped local public agencies. State retains responsibility under federal law and regulations for all delegated activities.
3. The Local Agency Certification Program (Certification Program) allows State to certify a local agency's procedures and delegates authority to the Certified local agency to administer federal-aid projects that are not on the NHS.
4. This Agreement shall supersede and replace Agreement No. 27077, and its subsequent amendment in its entirety.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

As used in this Agreement, abbreviations shall mean as follows:

| | |
|--------|--|
| AASHTO | American Association of State Highway and Transportation Officials |
| ADA | Americans with Disabilities Act |
| AKA | Also Known As |
| BOLI | Oregon State Bureau of Labor and Industries |
| CFR | Code of Federal Regulations |
| DBE | Disadvantaged Business Enterprise |

| | |
|-------|---|
| EEO | Equal Employment Opportunity |
| FAPG | Federal-Aid Policy Guide |
| FHWA | Federal Highway Administration |
| NHS | National Highway System |
| OAR | Oregon Administrative Rules |
| ODOT | Oregon Department of Transportation |
| OJT | On-the-Job Training |
| OMB | Office of Management and Budget |
| ORS | Oregon Revised Statutes |
| PS&E | Plans, Specifications and Estimates (includes schedule) |
| PTESC | Professional, Technical and Expert Services Contracts (This term, for the purpose of this Agreement, shall be synonymous with State's term "personal services contracts") |
| USC | United States Code |
| USDOT | United States Department of Transportation |

Certification

1. City has become fully Certified in: design; advertising; bid and award; and construction contract administration. As a result, this Agreement grants authority to City, for those test projects identified under paragraph three (3) of this Section, to design; advertise; bid and award; make contractor payments; provide construction contract administration; and ensure a construction quality assurance and quality control program for City's federal-aid non-NHS projects. In addition, City is authorized to pursue certification in the area of: consultant selection provided City first contacts and works with State prior to commencing activities for City to become Certified in such new area(s). State shall retain responsibility for all environmental review, permitting, agreements or approvals that are necessary as a result of the federal action. State shall administer on behalf of City, State's Civil Rights Plan including the Disadvantaged Business Enterprise (DBE) program, Equal Employment Opportunity (EEO) program, and On-The-Job Training (OJT)/APPRENTICESHIP program. Professional, Technical and Expert Services Contracts (PTESC) shall conform to FHWA requirements and all requirements outlined under the subtitle "Professional, Technical and Expert Services Contracts" shown below in this Agreement. The language in this Agreement is written to cover all areas in which City could seek certification. If City is not seeking Certification status in all areas, then some language may not apply. City shall not perform design work beyond their area(s) of expertise, as identified through the Certification Program process.
2. City understands and agrees that only City's Public Works Engineering Division has met all Certification criteria and that full Certification status is conditioned upon City's successful completion of test projects and written approval from State. City also understands and agrees that while federal-aid projects may originate from one or more of City's other divisions or departments only City's Public Works Engineering Division and City's Certification Program Liaison shall provide quality control, oversight and have final approval authority for all such federal-aid projects and ensure that rules, regulations, and processes outlined in this Agreement are followed. City understands that design, advertising, bid and award; and construction contract administration for City's federal-aid non-NHS projects shall be conducted only by Public Works Engineering Division.

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3. City understands and agrees that it must successfully perform two (2) to four (4) test projects, which may be select project phases, and until successful, City shall retain Conditional Certification status. State will conduct performance measurement and quality assurance reviews during all phases of the test projects. At the conclusion of the second test project and each subsequent test project, an assessment will be made by City and State to determine whether City should proceed to full Certification status or continue with another test project. Upon successful completion of the test projects and written approval by State, City shall be fully Certified to administer future federal-aid projects that are not on the NHS in accordance with this Agreement.
4. State retains its responsibility to FHWA for the administration of all federal-aid projects. If requested by City, or if deemed necessary by State in order to meet its obligations to FHWA, State will act for City in other matters pertaining to projects. Prior to taking such action, State will confer with City concerning actions necessary to meet federal obligations.
5. State and City shall each assign a liaison to coordinate activities under this Agreement and assure that the interests of both Parties are considered during all phases of any projects. State's Regional Local Agency Liaison shall provide program advice and support as needed throughout all projects.
6. City understands and agrees that final approval for full Certification status is conducted through State's Certification Program Manager in conjunction with State's Region Manager and may be rescinded at any time upon City's written request or if, in the opinions of State's Certification Program Manager and State's Region Manager, it is necessary to do so. The rescission may be applied to all or part of the programs or projects approved under the Certification Program.
7. State shall conduct random oversight reviews on City's Certification Program and projects through State's Certification Program Manager at least once every two (2) years after City has been awarded full Certification status. State may, at any time, initiate a formal audit using professional auditing standards of a federal-aid project.
8. The terms of this Agreement shall begin on the date all required signatures are obtained and shall terminate twenty (20) years following the date all required signatures are obtained, unless extended by an executed amendment. This Agreement may also be terminated upon City's or State's written request pursuant to the "Termination" Section of this Agreement.
9. This Agreement shall supersede and replace Agreement No. 27077 in its entirety. Agreement No. 27077 had superseded 25611 in its entirety. Supplemental Project Agreements entered into under Agreement No. 25611 and 27077 shall remain in full force and effect. It is agreed that all existing Supplemental Project Agreements entered into under the authority granted in Local Agency Certification Program Agreement No. 25611 and 27077 shall continue under the authority of Agreement No. 29008, and shall be effectively amended with this Agreement to replace any references to Agreement No. 25611 and 27077 with a reference to Agreement No. 29008. Invoices for construction, preliminary engineering and right of way work incurred prior to the replacement of Master Agreement Nos. 25611 and 27077 can be invoiced by City and paid for by State under

Agreement No. 29008 and the existing Supplemental Project Agreements.

Certified Agency Performing Work For Non-Certified Agency

1. City may perform work on behalf of a non-Certified agency in the areas in which City is Certified if City has obtained written approval from State. To obtain approval, City must submit a written request to State's Regional Local Agency Liaison with a copy to the State's Certification Program Manager. State's Regional Local Agency Liaison and State's Certification Program Manager will review the request and advise City in writing if the request is approved or denied.
2. If State approves City's request, the non-Certified agency and City must enter into a separate agreement which identifies the responsibilities between the two parties. City must submit a copy of the agreement to the State's Regional Local Agency Liaison and State's Certification Program Manager. The non-Certified agency must already have a signed federal-aid funding agreement with State on such a project. State and City will then enter into a Supplemental Project Agreement covering the non-Certified agency's project. City shall be responsible for the entire project, costs and non-participating costs. Long-term maintenance of a non-Certified agency project will be the responsibility of the non-Certified agency unless otherwise indicated in the Supplemental Project Agreement.

Program Administration

Projects must be consistent with the Regional Transportation Plan and appear in the Metropolitan Planning Organization's Transportation Improvement Program and the State Transportation Improvement Program if the projects receive federal funding through Title 23 Code of Federal Regulations (CFR).

Project Funding Request

1. City shall submit a separate agreement to State for each project, hereinafter referred to as "Supplemental Project Agreement." The Supplemental Project Agreement will be signed by both City and State before any federal-aid project work begins. At least one (1) of City's approval authorities, as identified in the "Signature Authorities" Section of this Agreement, is required to sign the Supplemental Project Agreements. The Supplemental Project Agreements will, at a minimum, cover specific project details including project name, City's project manager's title or designee, description of work, schedule, and funding sources. The Supplemental Project Agreements shall include services to be provided by State, City, or others.
2. State shall submit a separate written project funding request to FHWA requesting approval of federal-aid participation for each project phase including a) Program Development (Planning), b) Preliminary Engineering (National Environmental Policy Act – NEPA, Permitting and Project Design), c) Right of Way Acquisition, d) Utilities, and e) Construction (Advertising, Bid and Award, and Construction). Any work performed prior to FHWA's approval of each funding request will be considered nonparticipating and paid for at City expense. City shall not proceed on any activity in which federal-aid participation is desired until such written approval for each corresponding phase is obtained by State. State shall notify City in writing when authorization to proceed has been received from

FHWA. All work and records of such work shall be in conformance with FHWA rules and regulations. The federal funding for projects covered by individual Supplemental Project Agreements is contingent upon approval by FHWA.

3. City shall, on any project that uses federal funds in project development, submit final PS&E documents, construction schedule, environmental requirements and right of way certification to State's Regional Local Agency Liaison at least five (5) weeks prior to bid opening. State shall review such submittals and then submit a request to FHWA for approval of federal-aid participation for the construction phase when federal-aid participation is desired in this phase.

Finance

1. Federal funds shall be applied toward individual project costs at the current federal-aid matching ratio, unless otherwise agreed to and allowed by law. City shall be responsible for the entire match amount for the federal funds and any portion of the individual projects, which are not covered by federal funding, unless otherwise agreed to and specified in the Supplemental Project Agreements. City must obtain written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement. State considers City a subrecipient of the federal funds it receives as reimbursement under the Supplemental Project Agreements. The Catalog of Federal Domestic Assistance (CFDA) number and title for these projects is 20.205, Highway Planning and Construction, unless otherwise indicated in the individual Supplemental Project Agreements.
2. City shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If City has not repaid any non-participating costs, future allocations of federal funds, or allocations of State Highway Trust Funds to City may be withheld to pay the non-participating costs. If State approves City processes, procedures, or contract administration outside the *Local Agency Guidelines Manual* that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between City and State.
3. City agrees that costs incurred by State and City for services performed in connection with any phase on any individual federal-aid project shall be charged to the project, unless otherwise mutually agreed upon by the Parties. State will send an estimate of anticipated project service costs to City at thirty (30) percent plans review. Costs will be negotiated and reflected in the Supplemental Project Agreements. State shall simultaneously invoice FHWA and City for State's project costs, and City agrees to reimburse State for the federal-aid matching state share and any non-participating costs as determined in accordance with paragraph two (2), above upon receipt of invoice. Failure of City to make such payments to State may result in withholding of City's proportional allocation of State Highway Trust Funds until such costs are paid.
4. If City makes a written request for the cancellation of a federal-aid project, City shall bear one hundred (100) percent of all costs as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or City, City shall bear all costs, whether incurred by State or

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City, either directly or through contract services, and State shall bear any State administrative costs incurred.

5. City shall follow the requirements stated in the Single Audit Act. Local governments receiving five hundred thousand dollars (\$500,000) or more in federal funds must follow the requirements stated in the Single Audit Act. The Single Audit Act of 1984, PL 98-502 as amended by PL 104-156, described in OMB Circular A-133, requires local governments to obtain an audit that includes internal controls and compliance with federal laws and regulations of all federal-aid programs in which City participates. The cost of this audit can be partially prorated to the federal program.
6. City shall present invoices for one hundred (100) percent of actual costs incurred by City on behalf of each project directly to State's Regional Local Agency Liaison for review, approval and reimbursement to City. Costs will be reimbursed consistent with federal funding provisions and State's Supplemental Project Agreement. Such invoices shall a) have an invoice number, b) reference a vendor number, c) include a "remit to" name and address, d) reference this Certification Program Agreement Number 29008, e) include State's Expenditure Account number f) reference State's Supplemental Project Agreement number, g) identify the project by the project name in the Supplemental Project Agreement, and h) itemize and explain all expenses for which reimbursement is claimed. Invoices for services including, but not limited to, preliminary engineering and construction engineering shall be presented for periods of not less than one-month duration, based on actual expenses to date. (See paragraph seven (7) of Construction Activities and Administration of this Agreement for the construction contractor invoice period.) All invoices received from City must be approved by State's Regional Local Agency Liaison prior to payment. City's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of the Federal-Aid Policy Guide (FAPG), Title 23 CFR Parts 1.11, 140 and 710. Final invoices shall be submitted to State for processing within three (3) months from the end of each funding phase as follows: a) award date of a construction contract for preliminary engineering b) last payment for right of way acquisition and c) contract completion for construction. Partial invoices (progress payment) shall be submitted to State within three (3) months from the date that costs are incurred. Final invoices submitted after the three (3) months shall not be eligible for reimbursement. If City has an approved or certified indirect cost rate proposal which applies to federal-aid projects, as defined in Title 2 CFR Part 225, that rate must be clearly outlined in any invoices, either as a line item or submitted in the invoice transmittal cover letter.
7. City shall, upon State's written request for reimbursement, in accordance with Title 23, CFR Part 630.112(c) 1 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to City if any of the following events occur:
 - a. Right of way acquisition is not undertaken utilizing federal-aid funds or actual construction is not started by the close of the twentieth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized for right of way acquisition. City may submit a written request to State's Regional Local Agency Liaison for a time extension beyond the twenty (20) year limit with no

repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.

- b. Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. City may submit a written request to State's Regional Local Agency Liaison for a time extension beyond the ten (10) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
8. City shall maintain all project documentation in keeping with State and FHWA standards and specifications for all individual projects. This shall include, but is not limited to, daily work records, quantity documentation, material invoices, quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that projects are completed in conformance with approved plans and specifications.
9. State shall submit all claims received from City for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. State shall pay City all reimbursable costs on each project. State may request from City a statement of costs to date at any time by submitting a written request. When the actual total cost of each project has been computed, City shall furnish State with an itemized statement of final costs. City shall pay one hundred (100) percent of the final total actual project costs. The actual cost of services provided by State will be charged to the individual projects and will be included in the total cost of the projects. An estimate of State's costs will be provided in the Supplemental Project Agreements.
10. City agrees to refund to State all federal funds paid to City, if FHWA requests such funds from State, because City has not followed a process, rule or procedure outlined in City's Procedures, this Agreement or Supplemental Project Agreements. Refund from City shall be within thirty (30) days upon State's written notification. If City does not repay State within thirty (30) days, State shall withhold City's proportionate share of State Highway Trust Fund distribution until repayment has been made in full.
11. City shall, upon completion of each individual federal-aid project that constructs or improves any facility that would not be eligible for State Highway Trust Fund moneys subject to Oregon Constitution, Article IX, section 3a, complete and file with the appropriate County Clerk, a Memorandum of Agreement and Acknowledgment of Federal Assistance. The Memorandum of Agreement and Acknowledgement of Federal Assistance is marked as Exhibit A, attached hereto and by this reference made a part of this Agreement. In such circumstances, the individual Supplemental Project Agreement will include this Exhibit.

Standards

1. In accordance with City's standard contract specifications and design standards manual, City shall include in the title sheet of the plans the following: federal-aid project number, location sketch, title of project, project limits, and a provision for approving official(s)

signature(s) and date(s) and scale(s). A plan sheet index and list of applicable Oregon Standard Drawings and supplemental City plans will be included on the first sheet following the title sheet. City agrees that PS&E and construction plans shall, at a minimum, be in conformance with the current, State-approved edition of the following unless otherwise requested by City and approved by State, which are incorporated hereto by reference, and made a part of this Agreement:

- a. *City's Public Improvement Design Standards Manual*;
 - b. *City's Standard Construction Specifications*;
 - c. *Construction Specifications Institute technical specifications (Buildings) and General Conditions of the Contract for Construction B (Buildings)*;
 - d. *All AASHTO policies and guidelines*;
 - e. *Oregon Standard Specifications for Construction (APWA Oregon Chapter) and City's Amendments as approved by State*;
 - f. *Manual on Uniform Traffic Control Devices (MUTCD) and Oregon Supplements*;
 - g. *Oregon Temporary Traffic Control Handbook and National Association of City Transportation Officials Bikeway Design Guide*; (In the event of a conflict, the MUTCD and Oregon Supplements shall take precedence. These guidelines shall not be used on any project that is on or impacts a state highway.)
 - h. *Transportation Research Board's Highway Capacity Manual*;
 - i. *Local Agency Certification Procedures found in the Local Agency Guidelines Manual*;
 - j. *Title 23 and Title 49, USC, Highways and Regulations*;
 - k. *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*;
 - l. *ODOT Right of Way Manual*;
 - m. *ODOT's Bicycle & Pedestrian Design Guide (current version)*; and
 - n. *ODOT Bridge Section Load Rating Procedures. Use Tier 2 (LRFR) for bridges designed using Load Resistance Factor Design.*
2. City and State agree to the following notification process for City changes to City Standard Construction Specifications.
- a. State shall inform City of changes to the Oregon Standard Specifications through its regular written notification process. City shall ensure that any changes State makes to the Oregon Standard Specifications are integrated and implemented in City's approved specifications or relevant documents as required by state and federal regulations.
 - b. City shall submit to State for review any changes to the most current version of the City's General Conditions and Technical Specifications for federal-aid projects prior to implementation of proposed changes. City shall use track changes or similar tracking function to show said changes to the Part 100's General Conditions.
 - c. Modifications to technical specifications are made with each individual project and are shown in the proposed special provisions. These can be reviewed in conjunction with the City's Standard Construction Specifications and other construction documents. In the future, when the City's Standard Construction Specifications book is updated, the

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City will use "document compare" or a similar function to show all changes between the current approved version and the proposed version.

- d. If State takes exception to any proposed changes, State will provide City with written response prior to the affected project advertisement date or a reasonable amount of time.
3. City agrees that design standards for all projects on the Oregon State Highway System shall be in compliance with standards specified in State's current edition of the *Highway Design Manual* and related references, which are incorporated hereto by reference and made a part of this Agreement. City agrees construction plans shall be in conformance with the standard practices of State for plans prepared by its own staff.
4. City shall verify that the installation of traffic control devices meets the warrants prescribed in the *Manual on Uniform Traffic Control Devices* and Oregon Supplements. City further understands and agrees that any installation of traffic control devices on or adjacent to State facilities requires the approval of the State Traffic Engineer or State's Region Traffic Engineer as described in the *ODOT Traffic Signal Policy and Guidelines* and the *ODOT Traffic Manual*.
5. The standard unit of measurement for all aspects of the project shall be English Units. All project documents and products shall be in English. This includes, but is not limited to, right of way, environmental documents, plans and specifications, and utilities.
6. a. City shall obtain approval from State's Certification Program Manager prior to commencing any in-house bridge design.
b. City shall, for On-System Bridge projects, be responsible for funding the road approach work on individual Supplemental Project Agreements. City shall submit a letter identifying the funding source for this work six (6) weeks prior to advertisement for bid opening of individual On-System Bridge projects.
c. City must provide written notification to State's Bridge Inventory Coordinator when a bridge project is complete so the initial inspection can be scheduled.
7. City must submit the following information for any bridge project to State's Senior Local Bridge Standards Engineer:
 - a. As-Built Drawings (signed, final copy on mylar, "D" sized (24 x36) (containing final construction notes).
 - b. A copy of the construction or contract drawings. These can be half size (11x17) and can be on paper.
 - c. A copy of the foundation report.
 - d. Pile Records. (If applicable).
 - e. Hydraulic Reports. (scour analysis report included in this report)
 - f. Load Ratings Report. (City shall notify the State's Senior Local Bridge Standards Engineer if there is a contract in place to load rate the bridge. If there is not a contract in place, City shall hire a consultant to obtain the load rating. City shall provide a stamped report to the State's Senior Local Bridge Standards Engineer when it is

complete.)

Professional, Technical and Expert Services Contracts

1. City shall conduct consultant selection processes to obtain Architectural and Engineering (A&E) and Non-A&E personal services consultants in accordance with all applicable state and federal laws, regulations and policies in the solicitation and award process of any Supplemental Project Agreements containing federal funds. City shall follow City's documented processes for consultant selection, which have been reviewed and approved by State and FHWA.
2. Upon written request, State may make Region's consultant services contracts available for preliminary engineering and/or construction engineering services for City's federal-aid projects. If City chooses to use said services, City agrees to manage the work done by the consultant and make funds available to State for payment of those services.
3. City or others may perform preliminary and construction engineering. In the event that City elects not to use City's Certified consultant selection process to engage the services of a professional, technical and expert services consultant to perform any work covered by this Agreement, City may request State's two-tiered consultant selection process, as allowed by OAR 137-048-0260, or work with another Certified local agency to solicit consultants to perform architectural, engineering, land surveying and related services (A&E Services) as needed for federal-aid transportation projects. Use of any one of these processes is required to ensure federal reimbursement. State, or another Certified agency through which the City chooses to obtain consultant services, will award and execute the contracts. State's personal services contracting process and resulting contract document will follow Title 23 CFR Part 172, Title 49 CFR Part 18, ORS 279A.055, 279C.110, 279C.125, Oregon Administrative Rule 137-048-0130 OAR 137-048-0220(4) and State Personal Services Contracting Procedures as approved by the FHWA. If City obtains consultant services from another Certified agency, that Certified agency will follow the processes approved by State for obtaining consultant services. Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. No reimbursement shall be made using federal-aid funds for any costs incurred by City or contractors, including any consultant, prior to receiving written authorization to proceed from State or Certified agency that City engages to perform services. Any amendments to such contract(s) also require State's approval or the approval of Certified agency that City engages to perform services.

Preliminary Engineering

1. State shall, at project expense, review, process and approve or submit for approval to the federal regulators all environmental statements. State shall, if State prepares these documents, offer City the opportunity to review and approve the documents prior to advertising for bids.
2. City or its consultant shall, as a federal-aid participating preliminary engineering function, a) conduct the necessary field surveys, b) conduct environmental studies, c) conduct traffic investigations, d) conduct foundation explorations and hydraulic studies, e) either acquire or assist State with acquisition of necessary right of way and/or easements in

accordance with the Right of Way section of this Agreement, f) perform all preliminary engineering and design work required to produce final plans, preliminary/final specifications and cost estimates, g) conduct all public involvement processes and h) identify and obtain all required permits necessary for the construction of the project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction. All design exceptions from AASHTO design standards shall be reviewed by State for concurrence prior to advertisement of final plans and specifications.

Right of way

1. City and its consultant, if any, agree that right of way activities shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FAPG, CFR and the *ODOT Right of Way Manual*, and Title 23 CFR Part 710 and Title 49 CFR Part 24. State, at project expense, shall review all right of way activities engaged in by City to ensure compliance with all laws and regulations.
2. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. City may perform acquisition of the necessary right of way and easements for construction and maintenance of projects provided City or its consultant are qualified to do such work, as required by the *ODOT Right of Way Manual*, and City has obtained prior approval from State's Region Right of Way office to do such work.
3. Regardless of who acquires or performs any of the right of way activities, a right of way services agreement shall be created by State's Region Right of Way office setting forth the responsibilities and activities to be accomplished by each Party. On any project that has the potential of needing additional right of way, to ensure compliance in the event that additional right of way is unexpectedly needed, a right of way services agreement will be required. State, at project expense, shall be responsible for requesting the obligation of project funding from FHWA. State, at project expense, shall be responsible for coordinating certification of the right of way, and providing oversight and monitoring. Funding authorization requests for federal right of way funds must be sent through State's Regional Local Agency Liaison, who will forward the request to State's Region Right of Way office on all projects. City must receive written authorization to proceed from State's Right of Way Section prior to beginning right of way activities. All projects must have right of way certification coordinated through State's Region Right of Way office to declare compliance and project readiness for construction (even for projects where no federal funds were used for right of way, but federal funds were used elsewhere on a project). City shall contact State's Regional Local Agency Liaison, who will contact State's Region Right of Way office for additional information or clarification on behalf of City.
4. City agrees that if any real property purchased with federal-aid participation, is no longer needed for the originally authorized purpose, the disposition of such property shall be subject to applicable rules and regulations, which are in effect at the time of disposition. Reimbursement to State and FHWA of the required proportionate shares of the fair

market value may be required.

5. City ensures that all project right of way monumentation will be conducted in conformance with ORS 209.155.

Title VI

1. City agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, Title 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any contract awarded in conjunction with this Agreement. If City fails to comply with any federal or state Civil Rights requirements identified in this Agreement, sanctions may be imposed by FHWA or State as appropriate, including, but not limited to:
 - a. Withholding of payments to City under this Agreement until City causes compliance, or
 - b. Cancellation, termination, or suspension of this Agreement, in whole or in part.
2. City shall consider Title VI issues from the beginning of project development, through the entire project process, including project closure. City understands and agrees to comply with the Title VI requirements listed in the *Local Agency Guidelines Manual*, attached hereto by reference and made a part of this Agreement. In order to meet the requirements of the Title VI of the Civil Rights Act of 1964, City shall develop one of the following items, which must be approved by State's Office of Civil Rights:
 - a. A Title VI Program Plan (applicable to cities over 200,000 in population); or
 - b. A Title VI Program Plan or a Nondiscrimination Agreement (applicable to cities under 200,000 in population).
3. Complaint Procedures: City shall comply with Title VI by deferring all Civil Rights discrimination complaints to State's Office of Civil Rights and City must include the following language in any of its contracts under the Certification Program:

"Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the Department or its subrecipients, consultants, and contractors on the basis of age, disability, race, color, national origin, sex, or income status may bring forth a complaint of discrimination under Title VI and related statutes to the Oregon Department of Transportation, Office of Civil Rights, 355 Capitol Street NE, Salem, Oregon, 97301; (503)986-3169."

Construction – Bid, Award & Contract Administration

Civil Rights

Disadvantaged Business Enterprise (DBE), Equal Employment Opportunity Program (EEO), and On-the-Job Training (OJT)/APPRENTICESHIP

1. City, its contractors and subcontractors shall comply with the "United States Department of Transportation (USDOT) Approved Disadvantaged Business Enterprise (DBE) Commitment Requirements" and the "USDOT Approved Disadvantaged Business

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Enterprise (DBE) Supplemental Required Contract Provisions," incorporated hereto by reference and made a part of this Agreement. City shall send electronic copies of all completed Committed DBE Breakdown and Certification forms described in the "USDOT Approved DBE Commitment Requirements" to State's Small Business and DBE Program Manager, with a copy to State's Regional Local Agency Liaison, for review and approval. City shall not award any contracts under this Agreement prior to receiving written approval of said forms from the State's Small Business and DBE Program Manager. City agrees to ensure that the above provisions (including references therein) shall be incorporated into all contracts and subcontracts (regardless of tier) describing the work to be performed by DBEs on projects financed in whole or in part with federal funds. Failure by City to carry out these requirements on any project is a material breach of contract, which may result in the termination of the contract or such other remedy as State deems appropriate. Federal regulations Title 49 CFR Part 26, as approved by USDOT, are also incorporated by reference and shall be made a part of any contract specifications and this Agreement.

2. City, its contractors and subcontractors shall not discriminate on the basis of race, color, national origin, or sex, in the award, administration, and performance of any federal-aid contract in the administration of DBE requirements under Title 49 CFR Part 26.
3. City, its contractors and subcontractors shall comply with the EEO and the OJT/APPRENTICESHIP requirements, as referenced in the *Local Agency Guidelines Manual*, incorporated hereto by reference and made a part of this Agreement. City agrees to ensure that the EEO and OJT/APPRENTICESHIP requirements, listed in the *Local Agency Guidelines Manual*, shall be a part of all solicitations for bids on all federal-aid construction contracts or subcontracts of ten thousand dollars (\$10,000) or more. Title 23, USC, Section 140, Equal Employment Opportunity, as in effect on May 1, 1982, is incorporated hereto by reference and shall be made a part of any contract specifications and this Agreement. The OJT/APPRENTICESHIP requirements shall also be part of all solicitations for bids on all federal-aid construction contracts or subcontracts when OJT/APPRENTICESHIP is assigned and is in implementation of Title 23 USC Section 140(a). Federal regulations Title 23 CFR Part 230, as approved by USDOT, are also incorporated hereto by reference and shall be made a part of any contract specifications and this Agreement.
4. City, its contractors and subcontractors shall not discriminate on the basis of age, disability, race, color, national origin, sex, income status or religion in the award, administration, and performance of any federal-aid contract in the administration of EEO and OJT/APPRENTICESHIP requirements under Title 23 CFR Part 230.
5. City shall include in all construction bid books, relative to receiving federal-aid, the following paragraph.

"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR Part 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as City deems appropriate."

6. State shall make available to City, by electronic medium, all current and pertinent DBE, EEO and OJT/APPRENTICESHIP forms. City will include the forms in City's bid books, as defined in City's manual and procedures as appropriate. State's Office of Civil Rights will be available to provide EEO, OJT/APPRENTICESHIP and DBE training during the test projects.
7. State shall review and determine goals or requirements for DBE and OJT/APPRENTICESHIP for each project as appropriate. To initiate this review, City shall submit to State's Regional Local Agency Liaison, approximately thirteen (13) weeks before bid opening, the plans, specifications ninety (90) percent complete, engineer's estimate, cost and completion data as well as the DBE/OJT/APPRENTICESHIP Civil Rights Sheet (also known as (aka) "yellow sheet") by electronic means, fax, or hard copy. State's Regional Local Agency Liaison shall submit the documents to State's Small Business/DBE Program Manager in the Office of Civil Rights. If City disagrees with State's assigned goals or requirements for DBE and OJT/APPRENTICESHIP, City and State shall discuss, however, State will have final determination.
8. City understands that the DBE provisions and bid document inserts are required even if the DBE goal is set to zero (0). Federal regulations encourage contractors to involve DBE firms even if the DBE goal is zero (0). All prime bidders shall submit the Subcontractor Solicitation and Utilization Report (SSUR) (State form 734-2721) to the City within ten (10) days of bid opening. City shall forward the SSURs by electronic means or fax, to State's Small Business/DBE Program Manager in the Office of Civil Rights regardless of whether the DBE goal is zero or not.
9. City shall fax or send a list of the prime bidders with bid amounts for all bidders to State's Small Business/DBE Program Manager in the Office of Civil Rights. In addition, City shall forward appropriate Civil Rights form, "DBE Commitment Certification and Utilization Form", 734-2785, and information within twenty-four (24) hours of bid opening. State's Small Business Program Manager will evaluate the bids for DBE compliance and notify the City of the results. City shall not notify bidders of contract award until they have received the evaluation from State. After award, and prior to contract execution, City shall forward copies of all forms received by City from contractor(s) to State's Regional Local Agency Liaison within ten (10) days. After the contract is executed, City shall forward all forms received from contractor(s) to State's Regional Local Agency Liaison with ten (10) days. State's Regional Local Agency Liaison will forward all copies immediately to State's Small Business Program Manager.
10. City shall comply with the goals or requirements for DBE, and OJT/APPRENTICESHIP established by State for each federal-aid project.
11. If City's lowest bidder has not met the DBE goal on a project, State's Office of Civil Rights shall determine if good-faith efforts were made and make a recommendation to City regarding award as it applies to meeting the DBE goal assigned for that particular project. If State's Office of Civil Rights determines that City's apparent low bidder has not made good faith efforts, State's Office of Civil Rights will provide a paragraph to be included in a letter to the contractor from City that the bidder is non-responsive. The paragraph will include the reason for the determination that the bid is non-responsive and provide the

bidder an opportunity for administrative reconsideration. City shall use the information provided by State's Office of Civil Rights verbatim and make no changes to the wordage when submitting to the contractor. If the bidder requests administrative reconsideration, City shall notify State's Office of Civil Rights and State's Office of Civil Rights shall conduct the administrative reconsideration. State's Office of Civil Rights shall provide the results of the administrative reconsideration to City. City shall use the information provided by State's Office of Civil Rights verbatim and make no changes to the wordage when submitting to the contractor. City shall defend the administrative reconsideration committee decision with State and Department of Justice providing assistance.

12. If a protest is filed involving a DBE goal, State's Office of Civil Rights shall provide a written response to the protest and forward to City for finalizing and signature. City shall use verbatim the wordage provided by State's Office of Civil Rights in connection with the DBE goal issue. If City disagrees with the response, City may discuss with State's Office of Civil Rights, however, State's Office of Civil Rights has the final determination.
13. State shall provide support, compliance monitoring and on-site reviews (as required) for the DBE, EEO, and OJT/APPRENTICESHIP programs. State shall deliver to City the Standard Precon package for each project. State shall act on behalf of City regarding all Civil Rights contract administration activities and shall report any discrepancies or issues to City, not the Contractor. City shall forward the "Committed DBE Breakdown and Certification Form" to State's Office of Civil Rights for verification that the DBE goal continues to be met. City maintains responsibility to uphold the DBE, EEO, and OJT/APPRENTICESHIP programs with the contractor.

Construction Activities and Administration

1. City understands and agrees that certification is only for the low bid contracting process. If City wishes to use an alternate method of bidding other than low bid, City shall contact State's Regional Local Agency Liaison to obtain State's and/or FHWA written approval.
2. City may use Additive Alternate Bidding (aka Bid Alternates). City's first Additive Alternate Bidding project using the Certification Program will be considered a test project and City will need to inform State's Regional Local Agency Liaison at ninety (90) percent PS&E.
3. City agrees that contract administration, quality control, quality assurance, material sampling and testing will be accomplished in accordance with City's current standards for federal-aid projects, or City may use State's current Construction Manual. Said manuals are incorporated hereto by reference, and made a part of this Agreement.
4. City shall determine whether state Bureau of Labor & Industries (BOLI) wage rates apply or if BOLI and federal Davis-Bacon (federal) wage rates must be compared and the higher of the two (2) rates paid per classification. City will need to inform State's Regional Local Agency Liaison of the determination at ninety (90) percent PS&E. City shall monitor labor compliance and prevailing wage rate compliance.
5. City shall include in the bid book the requirement of a bid guaranty in an amount not to exceed ten (10) percent of the bid amount; a performance bond in an amount equal to the full contract price; and a payment bond in the amount equal to the full contract price.

Each bid guaranty, performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. City will ensure that State is included as either a dual obligee or a named additional obligee under the performance bond. Proof of said bonding will be provided to State's Regional Local Agency Liaison by the acquiring Party.

6. If City awards a construction contract, City shall follow City's materials quality program. City shall process and pay all contractor progress estimates, make final contractor payment, check final quantities and costs, and oversee and provide inspection services during the construction phase of each project.
7. State will reimburse City for construction contractor payments within ten (10) working days of receipt of payment request from City. Once State's Regional Local Agency Liaison has received invoice from City, State's Regional Local Agency Liaison shall forward the invoice to State's Financial Services Office for payment. Receipt of payment requests shall include the items listed in paragraph six (6) of the "Finance" Section of this Agreement.
8. City shall prepare contract and bidding documents, advertise for bid proposals, and award all contracts, and conduct all contract administration. Upon City's award of the construction contract, City, or its consultant, shall be responsible to perform all construction engineering, field testing of materials, technical inspection and project manager services for administration of the contract and making contractor payments.
9. City shall send State, within one (1) year following contract completion for construction, a final copy of "As Constructed" plans if a roadway project is on or affects the state highway system and for all bridge projects both on and off the state highway system where State has responsibility for inspection of such bridges.

Contract Claims and Contractor Change Orders

1. City shall follow City's procedures for contractor claims and Contract Change Orders as described in City's standards for federal-aid projects. City's contract specifications are required to include a process for dispute and claim resolution.
2. City cannot exceed any state or federal funding authorization without following State's process, and obtaining approval for an increase in project authorization.
3. FHWA retains approval authority over:
 - a. Waiver for Buy American provisions;
 - b. Any sensitive or controversial change, or any change for which FHWA review and approval is specifically requested; and
 - c. Work not already approved by FHWA if approval is questionable.
4. State retains approval authority over certain changes to the project. The notification of proposed changes must be sent to State's Regional Local Agency Liaison for approval prior to the City approving a Contract Change Order in any of the following areas:

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- a. Changes which affect environmental mitigation classification or commitments;
- b. Right of way access control on or impacting State's facilities;
- c. Changes in the scope of work or extension of the contract limits shown in the project documents approved by State and FHWA;
- d. Any contract change altering the DBE goals or requirements;
- e. Any impact or changes to traffic mobility including width, height, weight, length, access to the route or additional travel delay on or impacting State's facilities; and
- f. Any change(s) resulting in less than AASHTO Design Standards for projects on the NHS.

Railroads

City shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the State's Regional Local Agency Liaison, who will contact State's Railroad Liaison on behalf of City. Only those costs allowable under Title 23 CFR Part 140 Subpart I, and Title 23 Part 646 Subpart B shall be included in the total project costs; all other costs associated with railroad work will be at the sole expense of City, or others. City may request State, in writing and at project expense, to provide railroad coordination and negotiations. However, State is under no obligation to agree to perform said duties.

Utilities

City shall follow State established statutes, policies and procedures when impacts occur to privately or publicly-owned utilities. Policy, procedures and forms are available through the State Utility Liaison or State's Regional Local Agency Liaison. City shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility Liaison. Only those utility relocations, which are eligible for reimbursement under the FAPG, Title 23 CFR Part 645 Subpart A and B, shall be included in the total project costs; all other utility relocations shall be at the sole expense of City, or others. City may send a written request to State, at project expense, to arrange for utility relocations/adjustments lying within City jurisdiction. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. However, State is under no obligation to agree to perform said duties. (City shall not perform any utility work on state highway right of way without first receiving written authorization from State.)

Maintenance Responsibilities

City shall, upon completion of each project, maintain, operate and provide power as needed to operate the projects at its own cost and expense for the useful life of each project. The useful life of each project shall be identified as eight (8) years for pavement overlay projects and twenty years (20) for all other projects, unless otherwise indicated in the individual Supplemental Project Agreements. In the event a project will include or affect a state highway, this provision does not address maintenance of that state highway.

Projects on or Impacting State Highway

1. City shall contact the appropriate State District Office prior to commencement of work to determine if any permits are needed to occupy State right of way. City agrees to comply

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with all provisions of any State-issued permits to occupy or perform operations upon a state highway and to also obtain road approach permits from the State District Office if they are needed, according to OAR 734, Division 51. City agrees to comply with all provisions of required permits, and shall require its developers, contractors, subcontractors, or consultants performing such work to comply with such provisions.

2. Pursuant to OAR 734-020-0430, City shall obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal to be installed on a state highway.
3. City and State shall enter into a separate traffic signal agreement to cover obligations for any traffic signal being installed on a state highway.
4. City, or its contractor's, electrical inspectors shall possess a current State Certified Traffic Signal Inspector certificate, in order to inspect electrical installations on state highways. The State District Permitting Office shall verify compliance with this requirement prior to construction. The permit fee should also cover the State electrician's supplemental inspection.
5. State shall, at project expense, perform the signal equipment environmental testing. State Signal Technicians shall, at project expense, perform the signal field testing, and turn-on.
6. Traffic signal timing shall be the responsibility of State, unless there is an agreement that specifically allows City to perform that function. State shall retain the right of review of the traffic signal timing for signals on state highways, or those which State maintains, and shall reserve the right to request adjustments when needed. In cases where City modifies timing to add railroad or emergency vehicle preemption, bus priority, or other changes that affect vehicle or pedestrian clearances, or operation of the state highway, such modifications shall be reported to State's Region Traffic Engineer. State's Region Traffic Engineer will notify City whenever timing changes that affect the operation of local street connections to the state highway are scheduled. All modifications shall follow guidelines set forth in the current *Manual on Uniform Traffic Control Devices*, and the current *ODOT Traffic Signal Policy and Guidelines*.
7. City shall, upon completion of individual projects and at its own expense, maintain the pavement surrounding the vehicle detector loops installed in City roads and streets in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in State requiring City to repair or replace the damaged loops at City expense. Future City roadwork activities involving the detector loops may also result in the same State requirements. City shall also adequately maintain the pavement markings and signing installed in accordance with the approved signal plan sheets for the signal installation or current *Manual on Uniform Traffic Control Devices* standards.
8. State shall, upon completion of individual projects and at its own expense, maintain the pavement surrounding the vehicle detector loops installed in the state highway in such a manner as to provide adequate protection for said detector loops. State shall also adequately maintain the pavement markings and signing installed on the state highway in accordance with current State standards.

9. City shall include the following stipulations in the Special Provisions for construction contract work for any project where City is contracting work on a state highway:
- a. Contractor shall name State as a third party beneficiary of the resulting contract.
 - b. Contractor shall indemnify, defend and hold harmless City, State and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of contractor or its officers, employees, subcontractors, or agents under the resulting contract.
 - c. Commercial General Liability. Contractor shall obtain, at contractor's expense, and keep in effect during the term of the resulting contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State and City. This insurance shall include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits.) Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be less than one million dollars (\$1,000,000) for each job site or location. Each annual aggregate limit shall not be less than two million dollars (\$2,000,000.)
 - d. Automobile Liability. Contractor shall obtain, at contractor's expense, and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits.) Combined single limit per occurrence shall not be less than one million dollars (\$1,000,000.)
 - e. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract shall include State and City and its divisions, officers and employees as Additional Insured but only with respect to the contractor's activities to be performed under the resulting contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
 - f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to State and City. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the resulting contract and shall be grounds for immediate termination of the resulting contract and this Agreement.
 - g. City shall require its contractor(s) and/or subcontractor(s) as appropriate to acquire construction and performance bonding covering public interest. Where project construction affects State property, State will be included as either a dual obligee or a named additional obligee under the performance bond. Proof of said bonding will be provided to State's Regional Local Agency Liaison by the acquiring Party. If City fails to meet the requirements of this paragraph or the underlying agreement conditions,

including all incorporated state and federal laws, rules and regulations and costs are incurred by State because of it, State may withhold City's proportional share of Highway Trust Fund distribution necessary to reimburse State for those costs.

10. Traffic signal, illumination poles and foundations installed on state highways shall conform to State's standards, pursuant to State's Traffic Structures Design Manual and Geotechnical Design Manual.
11. City shall be responsible for any behind the curb improvements including areas located within highway right of way, except as provided in a Supplemental Project Agreement. Such improvements shall be maintained at the same level as are similar facilities owned by State. City may require the adjacent property owners to fund or perform maintenance of the behind the curb improvements. City shall remain responsible for compliance with the terms of this Agreement, and for the performance of such work, even when maintenance is performed by City contractors or property owners, or if right of way behind the curb is partly or entirely on state right of way.
12. City shall maintain the landscaping and irrigation to be installed for all improvements behind the curbs or roadway. Maintenance along and on the state highway shall include replacement of dead or dying plants and trees, removal of litter, removal of weeds or weed control and tree trimming to maintain a seventeen (17) foot clear zone in the travel lane, leaf removal and irrigation for healthy sustainability of said landscaping.
13. City shall be responsible for one hundred (100) percent of water and power costs associated with the landscape and irrigation installed as part of improvements behind the curbs or roadway. City shall ensure that the water and power companies send water and power bills directly to City.
14. State grants City or others designated by City and permitted by State District Permitting Office, permission to access State right of way for the purpose of maintaining project-related landscaping and sidewalks. In lieu of State district permits, State hereby grants City or others designated by City the right to enter and occupy State right of way for the purpose of routine maintenance of all project related landscaping and sidewalk improvements. City shall contact State's Regional Liaison to determine if a permit is required from State's District Office for all other activities beyond the listed routine maintenance prior to commencing activities.
15. City grants State or others designated by State the right to enter onto and occupy City right of way for the purpose of inspection, audit, maintenance and operation of State owned and other designated facilities, and performance of any other State duty or obligations.
16. City shall be responsible for the cost of decorative embellishment on any signal or separate illumination poles and shall be responsible for any decorative embellishment maintenance on such poles upon completion of City projects. Any decorative lighting shall be the responsibility of City for both power costs and maintenance. Such illumination shall be served by a separate system from the signal system. Any such additional illumination on the highway must be reviewed by the office of the State Traffic Engineer. State District Office shall coordinate all such reviews. Decorative poles and foundations installed on

state highways must conform to State's standards, pursuant to Technical Bulletin TR07-06(B).

17. State may conduct periodic inspections during the life of City certification projects to verify that projects are being properly maintained and continue to serve the purpose for which federal funds were provided.
18. State shall, at its own expense, maintain and operate the portions of the individual projects on state right of way.

General Provisions

1. City further agrees to comply with all applicable Civil Rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
2. City agrees and understands that it will conduct all contracting in compliance with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of ORS Chapters 279A, 279B, and 279C, the provisions of ORS 279C.505, 279C.515, 279C.520, 279.530, and 279B.270, Title 2 CFR Part 225; Title 23 CFR Parts 1.11, 140, 710, and 771; Title 49 CFR Parts 18, 24 and 26; and OMB CIRCULAR NO. A-133; Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended and provisions of the FAPG, *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*, *Local Contract Review Board Contracting Rules*, and Cities applicable contracting rules of procedure adopted, pursuant 279A.060 and 279A.065(5).
3. City acknowledges and agrees that State, the Oregon Secretary of State's Office, USDOT Office of Inspector General, FHWA, any other federal government agency, and their duly authorized representatives shall have access to such fiscal records and other books, project documents, papers, plans and writings of City pertaining to work covered by the Supplemental Project Agreements to perform examinations and audits and make excerpts and transcripts. City is responsible for using its procedures, as approved by State, for project documentation and long term retention of project documentation. In all contracts, City shall expressly require that the contractor and subcontractor(s) maintain the records and keep the records accessible and available at reasonable times and places for a minimum period of six (6) years from the date of final payment under the contract or subcontract or until the conclusion of any audit, controversy or litigation arising out of or related to the contract, whichever date is later, unless a different period is required by law. See the Secretary of State's Retention Schedule; e.g. OAR Chapter 166, Division 200 for cities and Division 300 for state agencies. This shall include, but is not limited to:
 - a. daily work records;
 - b. quantity documentation;
 - c. material invoices and quality documentation;
 - d. certificate of materials origin;
 - e. process control records;
 - f. project diary;

- g. erosion control reports;
 - h. temporary protection and direction of traffic reports;
 - i. foreign steel summary;
 - j. test results; and
 - k. inspection records to ensure that projects are completed in conformance with approved plans and specifications.
4. City shall retain and keep all files and records for a minimum of six (6) years following the date of final voucher to FHWA. Copies of such records and accounts shall be made available upon request. For real property and equipment, the retention period starts from the date of disposition (Title 49 CFR Part 18 Subpart 42).

City and State Indemnifications

CONTRIBUTION

1. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or City with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
2. With respect to a Third Party Claim for which State is jointly liable with City (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by City in such proportion as is appropriate to reflect the relative fault of State on the one hand and of City on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of City on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
3. With respect to a Third Party Claim for which City is jointly liable with State (or would be if joined in the Third Party Claim), City shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of City on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well

as any other relevant equitable considerations. The relative fault of City on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

ALTERNATIVE DISPUTE RESOLUTION

The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement and Supplemental Project Agreements. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

INDEMNIFICATION

1. City shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of City's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of State, be indemnified by the contractor and subcontractor from and against any and all Claims.
2. Any such indemnification shall also provide that neither City's contractor and subcontractor nor any attorney engaged by City's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that City's contractor is prohibited from defending the State of Oregon, or that City's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against City's contractor if the State of Oregon elects to assume its own defense.
3. City, subject to any limitations imposed by State law and the Oregon Constitution, agrees that on all projects where City is contracting for services pursuant to this Agreement or performing project management for the project to accept all responsibility, defend lawsuits, indemnify and hold State harmless, for all contract related claims and suits, including but not limited to all contract claims brought by any contractor arising out of the contractor's work, City's supervision of any individual project, or City's failure to comply with the terms of this Agreement and Supplemental Project Agreements.

Insurance

1. City shall require its contractor(s) to list the State of Oregon, Oregon Transportation Commission and its members, and Department of Transportation, its officers and employees, as additional insured in the insurance certificates required of contractor(s) under any contract. Prior to Notice to Proceed, contractor shall provide insurance certificates to City. For railroad insurance, the maximum dollar amounts of coverage to be reimbursed for federal funds with respect to bodily injury, death and property damage is limited to a combined amount of two million dollars (\$2,000,000) per occurrence with an aggregate of six million dollars (\$6,000,000) applying separately to each annual period. FHWA must approve any exceptions to the maximum railroad protective insurance limits. City should contact local railroad for insurance requirements. The insurance coverages shall be in effect for the life of the contract.
2. City shall include State as a third party beneficiary in the specifications of City's construction contract on any projects, with express authority to enforce the terms and conditions of the contract.

Workers' Compensation Coverage

All employers, including City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than five hundred thousand dollars (\$500,000) must be included. City shall ensure that each of its contractors complies with these requirements.

Termination

1. This Agreement or Supplemental Project Agreements may be terminated by mutual written consent of both Parties.
2. State may terminate or rescind this Agreement or Supplemental Project Agreements if City fails to comply with the requirements of the above-mentioned agreements, and after receipt of written notice from State, fails to correct such compliance issue within ten (10) days or such longer period as State may authorize.
3. State may terminate this Agreement or Supplemental Project Agreements effective upon delivery of written notice to City, or at such later date as may be established by State, under any of the following conditions:
 - a. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make federal fund reimbursements to City as provided under the Certification Program.
 - b. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Certification Program is prohibited or State is prohibited from reimbursing City with federal funds.

City/State
Agreement No. 29008

4. Any termination of this Agreement or Supplemental Project Agreements shall not prejudice any rights or obligations accrued to the Parties prior to termination.

Lobbying Restrictions – pursuant to Form FHWA-1273, Required Contract Provisions

1. City certifies by signing the Agreement that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit, for each Supplemental Project Agreement, Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
 - e. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

Signature Authorities

1. City agrees that it has the means to provide adequate expertise and has support staff available to perform the functions being subdelegated. The support staff may include consultants or state services. City shall ensure that any contracts entered into with consultants, contractors or subcontractors shall adhere to the same requirements as those required of City under this Agreement.
2. City's approval authorities for any work performed by City under conditional certification, and after final certification has been granted, shall be identified in a letter to be provided to

State. The letter must be sent to State's Certification Program Manager upon execution of this Agreement. If any of the titles identified by City as having approval authority change, City shall immediately send a new letter to State's Certification Program Manager identifying all the Parties by title that have approval authority. State's Certification Program Manager will provide a copy of any updates to the State's Regional Local Agency Liaison. City agrees that the signatures on each project prospectus, Supplemental Project Agreement, contract, and all project development phases shall adhere to said approval authority.

3. City certifies and represents that the individuals signing this Agreement have been authorized to enter into and execute this Agreement on behalf of City, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind City.
4. The provisions of this Agreement shall apply to all federal-aid Supplemental Project Agreements City enters into with State. If needed, and agreed to by both State and City, the provisions of this Agreement may be modified by use of special provisions in the Supplemental Project Agreements. In the event of a conflict, the Supplemental Project Agreement shall control over this Agreement.
5. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
6. This Agreement and the attached exhibits constitutes the entire agreement between the Parties on the subject matter hereof. Supplemental Project Agreements will incorporate this Agreement and the exhibit(s) for purposes of those specific projects. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

Signature Page to Follow

CITY OF CORVALLIS, acting by and
through its elected officials

By _____
Title: _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
City Legal Counsel

Date _____

City Contact:

Somkeart Sartnurak, Engineering
Supervisor, Public Works
City of Corvallis
1245 NE 3rd Street
Corvallis OR 97339-1083
541-766-6731
somkeart.sartnurak@ci.corvallis.or.us

State Contact:

Michael Starnes, Local Agency Liaison
455 Airport Road SE Building B
Salem OR 97301-4989
503-986-6920
michael.s.starnes@odot.state.or.us

STATE OF OREGON, acting by and
through its Department of Transportation

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Certification Program Manager

Date _____

By _____
Region 2 Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

City/State
Agreement No. 29008

STATE OF OREGON
DEPARTMENT OF TRANSPORTATION

City is fully Certified in the following functional areas as marked below:

- Design
- Advertise, Bid and Award
- Construction Contract Administration

City may seek Certification status in the following functional area as marked below:

- Consultant Selection

After recording, return to:

EXHIBIT A
MEMORANDUM OF AGREEMENT AND ACKNOWLEDGEMENT OF FEDERAL ASSISTANCE
[State Recording Authority: ORS 93.710 and ORS 205.130(2)]

Agreement Number:
Project Name:
Key Number:

Supplemental Project Agreement No. _____ between the (Insert City Name) and the State of Oregon, Department of Transportation was executed on _____. Pursuant to paragraph _____, City Obligations, page _____ of the Supplemental Project Agreement, upon the recording of this document, the (Insert City Name) received federal funds for the Project described in the Supplemental Project Agreement. The property and assets under the jurisdiction of the (Insert City Name) were improved with the assistance from the United States Government. Such assistance was provided to (Insert City Name), in reimbursement of costs associated with the (Insert City Name). The use and disposition of said property is subject to the terms of the above noted Supplemental Project Agreement, copies of which may be obtained from the Director of ODOT and is also subject to 49 CFR Part 18. A description of the improved property is attached.

(Insert City Name)

By: _____
(Name of person)

(Notary Stamp)

Title: _____

State of Oregon: County of _____

Signed or attested before me on _____ by _____
(Date) (name(s) of person(s))

_____ My commission expires on _____.

STATE OF OREGON, DEPARTMENT OF TRANSPORTATION

By: _____
Darel Capps

(Notary Stamp)

Title: Active Transportation Section Manager

Signed or attested before me on _____ by _____
(Date) (name(s) of person(s))

_____ My commission expires on _____.



MEMORANDUM

To: Mayor and City Council
From: Karen Emery, Director, Parks and Recreation Department *KS*
Date: February 4, 2013
Subject: NW Natural Easement Payment

Issue:

Staff negotiated compensation for an easement on Park land from NW Natural. Staff seeks City Council approval to accept and appropriate these funds to Parks and Recreation Special Projects.

Background:

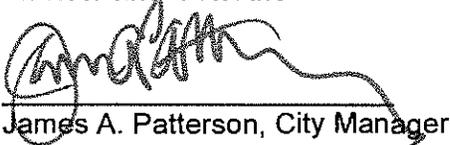
At the March 19, 2012 City Council meeting, Council passed a motion to grant an easement on City-owned park property to NW Natural at a compensation amount of \$141,180. As described in the March 12, 2012 staff report, these funds will be expended on deferred maintenance projects throughout the system.

Discussion:

Staff has identified the following deferred maintenance projects to complete utilizing these funds. Staff has not obtained quotes for these projects and will complete as many as the resource allows. Staff prioritized the projects based on public safety, access, revenue generation and number of public complaints. Depending on when the funds are received and any weather constraints, staff may have to carry over funds to next Fiscal Year.

- Central Park Asphalt Walk Repairs and Overlay
- Playground Fall Material and ADA access improvements
- Asphalt walk repairs at Riverbend Park and Grand Oaks Park
- Willamette Park Entrance Drive Chip Seal
- Pioneer Park Gravel Parking Lot Resurfacing

Review and Concur:


James A. Patterson, City Manager


Nancy Brewer, Finance Director

Attachments: Staff Memo, March 13, 2012
Council Minutes, March 19, 2012
Easement Agreement

RESOLUTION 2013 - ____

Minutes of the February 4, 2013 Corvallis City Council meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS, ORS 294.471(1)(a) provides for the governing body of any municipal corporation to make a supplemental budget if a condition occurs which had not been ascertained at the time of the preparation of a budget for the current year which requires a change in financial planning; and

WHEREAS, ORS 294.471(3) provides that as long as the estimated expenditures contained in a supplemental budget do not differ by greater than 10% of the Fund's regular budget for the fiscal year, that no public hearing or publication of the budget is required; and

WHEREAS, the 2012-13 approved budget included budget appropriations for the Parks and Recreation Fund that totaled \$5,928,130 at the time of budget adoption; and

WHEREAS, a resolution for a supplemental budget is required to appropriate additional revenues received from NW Natural for an easement on Park land associated with the "Corvallis Loop" pipeline project; and

WHEREAS, this incremental operating budget will be used for parks-related deferred maintenance special projects; and

WHEREAS, the City Council has determined that an increase in resources has occurred which allows a change in financial planning and necessitates the supplemental appropriations described below;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES that appropriations in fiscal year 2012-13 budget be increased as follows:

| <u>FUND</u> | <u>AMOUNT</u> |
|----------------------------|---------------|
| Parks and Recreation Fund | |
| Parks and Recreation Dept. | \$141,180 |

BE IT FURTHER RESOLVED that the Finance Director is authorized to make the proper adjustments in the budget appropriations.

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted, and the Mayor thereupon declared said resolution to be adopted.

MEMORANDUM

To: Mayor and City Council ✓6
From: Karen Emery, Parks and Recreation Director
Date: March 13, 2012
Subject: Northwest Natural Gas Corvallis Loop Project

Issue:

Northwest Natural Gas (NWNG) has requested temporary and permanent City easements for the "Corvallis Loop" project, an underground directional bore designed to provide 9.5 miles of 12" high pressure natural gas pipeline from the NWNG Albany Gate Station to a gas hub located near the Oregon State University Energy Center at Western Boulevard and 35th Street.

Specifically, NWNG has requested 1) 2.1 acres of permanent easement for an underground pipeline passing through the southwest corner of Berg Natural Area (BNA) and extending through the western border of Avery Park and Natural Area and 2) 4.1 acres of temporary easement at BNA, to accommodate a surface pipeline assembly area. The project includes one underground Willamette River crossing and three underground Marys River crossings (attachment 1). NWNG has submitted an easement compensation counter-offer (attachment 2) to City Manager Patterson's proposed solution letter of December 8, 2011 (attachment 3).

Background:

NWNG has redesigned the original route to stay within the Oregon Department of Transportation's (ODOT) right of way, on the east side of the Highway 34 bypass, thereby reducing the original proposed permanent easement request for BNA. The redesign reduces the total linear footage of easements on the five park parcels from 6000 to 3800 linear feet. In addition, to eliminate the construction impact at Pioneer Park, NWNG proposes to construct the pipeline by means of a single, directional bore (trenchless installation), from BNA through Avery Park. The original proposal included two directional bores through the five park parcels, which would have resulted in bore exits, open trenching, and equipment staging at Pioneer Park.

In addition, NWNG was queried with regard to project safety as part of the process for the original proposal. NWNG is regulated by the Oregon Public Utilities Commission (OPUC) and governed by the Code of Federal Regulations DOT code 49 (Part 192) "Transportation of Natural and other gas by pipeline". This code defines the minimum safety standard for materials, pipe design, pipe components, welding, testing, operations, maintenance, personnel qualification and integrity management. The code requires NWNG to maintain and keep records of all pipeline and components. Mayor and City Council questions were compiled during the September 19, 2011 executive session, and forwarded to NWNG. The NWNG response is provided (attachment 4).

Discussion:

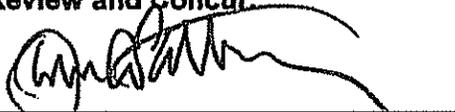
The current NWNG easement compensation offer is considerably more favorable, when compared to the previous offer and alternative alignments. First, this proposal requires less City park property, resulting in reduced impacts to citizens and contracted farming

operations at BNA. Second, this proposal will not disrupt any programmed recreational opportunities at Pioneer Park, as the redesign eliminates surface impacts at that location. Third, this proposal bypasses the downtown area, resulting in no impact to businesses and vehicle traffic. Fourth, this proposal would provide significant funding for the improvement of existing park infrastructure, currently deferred through budget necessity. Parks and Recreation and Public Works staff conclude that the current proposal represents the least impact to citizens and City infrastructure, considering all previous alignments.

Recommendation:

Staff recommends City Council accept the NWNNG easement compensation offer, dated March 12, 2012. Staff further recommends that City Council direct the City Manager to sign the required permits, and direct the City Attorney to draft appropriate easement language.

Review and Concur:



James A. Patterson, City Manager



Jim Brewer, City Attorney



Nancy Brewer, Finance Director

X. NEW BUSINESS – continued

B. Motion relating to real property transaction

Councilors Brauner and Beilstein, respectively, moved and seconded to accept the Northwest Natural Gas easement compensation offer dated March 12, 2012, authorize the City Manager to sign the appropriate documents and permits, and direct the City Attorney to draft easement language (Attachment K).

Councilor Raymond stated her preference for a public hearing on this issue prior to Council consideration.

The motion passed unanimously.

Mayor Manning recessed the Council at 2:18 pm and Acting Mayor O'Brien reconvened the Council at 7:00 pm in the LaSells Stewart Center, 875 SW 26th Street, Corvallis, Oregon.

I. ROLL CALL

PRESENT: Acting Mayor O'Brien, Councilors Brown, Traber, Brauner, Raymond, Hirsch, Hervey (7:09), Beilstein

ABSENT: Mayor Manning (recused), Councilor Hogg (excused)

VI. VISITORS' PROPOSITIONS

Eric Coker requested the City move all monies from large financial institutions to local credit unions. He presented a proposal that outlines demands, addresses limitations, identifies individuals who signed a prior petition, and includes comments from some petition signers (Attachment A). Moving the City's funds from Wall Street banks to local financial institutions stimulates local economic ties in the community. OSU Federal Credit Union (OSUFCU) is locally based and operates more ethically than Wells Fargo Bank. They strengthen the local economy by approving local loans to local businesses.

Councilor Brown said he previously served on the OSUFCU Board of Directors and it was his experience that local financial institutions do not seek the City's business.

Mr. Coker said OSUFCU has expressed interest in the City investing funds in their institution. They are aware of the 2013 law that may allow this.

Councilor Hirsch noted that there is a lot of support for the City investing in local financial institutions. At this time, State restrictions do not allow municipalities to utilize credit unions. He opined that the City will move funds as soon as the restrictions are amended.

Mr. Coker added that it will be important for the City to establish new criteria for selecting banking services to keep funds local and sustainable.

Tract # 12S05W03D, Tax Lot 100; 12S05W03DA, TL 100
12S05W02CB, TL 400 and 12S05W01, TL 1200,
12S05W02BD, TL 4400

NW Natural

Special Provisions and Agreements made for Pipeline Easement

Landowner: City of Corvallis, OR

Tax Lots 100, 400, 1200
Sections 3D, 3DA, 2CB, 1

Address: PO Box 1083
Corvallis, OR 97339

T 12 S , R 5 W
Linn, Benton County(ies)

Telephone: 541-766-6900

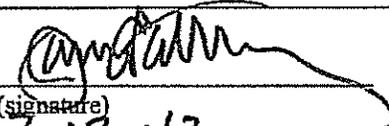
Page on Construction Drawing None

Site
Address: None – vacant land
(see Tract #'s, above)

Special Commitments & Agreements:

Landowner, CITY OF CORVALLIS, OR, agrees to grant a 25 foot wide pipeline easement to NW Natural on the above properties for the purpose of providing a gas line to serve the City of Corvallis and Oregon State University. NW Natural wishes to begin the work (service installation) prior to the easement being executed. This letter of intent gives NW Natural permission to install the gas line with the understanding that the formal written legal easement document will be executed after the work and pipeline centerline survey is completed. When the easement documents are completed we will send them to you to be signed, notarized and recorded.

Please sign this letter of intent and return it to us so we may schedule the service for installation.

Landowner: 
(signature)
Date: 3-22-12

Acknowledged By: _____

NW Natural Representative: _____

Date: _____

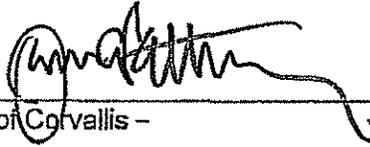
Rural Resource Zoning District Conditional Use Application

Map/Tax Lot: 12S 5W Section 1 Tax Lot 1200

Site Address: None

Owner/Representative Signature

City of Corvallis -

A handwritten signature in black ink, appearing to be "C. Smith", written over a horizontal line.

3-22-2012

i.

MEMORANDUM

To: Mayor and City Council

From: Mary Steckel, Public Works Director 

Date: January 24, 2013

Subject: WaterSMART: Water and Energy Efficiency Grants for 2013

Issue:

The City of Corvallis submitted a proposal to the Bureau of Reclamation's WaterSMART: Water and Energy Efficiency Grants for 2013 in the amount of \$299,998. City Council action is required to complete the application process.

Background:

The City requested federal funding assistance of \$299,998 to conduct a two-year outreach and public participation campaign that will encourage and motivate Corvallis households to reduce their water and energy use. The bulk of the program, if awarded, will be managed and organized by the Corvallis Environmental Center (CEC) with City staff providing administrative oversight, fulfilling reporting requirements, and advising on water use statistics and information. The program is scheduled to begin September 2013.

The City will provide a match of \$9,000, plus a cost share match of \$144,000 from the CEC, for a total grant project cost of \$452,998. The City's matching funds will be provided in the form of staff time and services. The match amount is accounted for in current budget items.

Discussion:

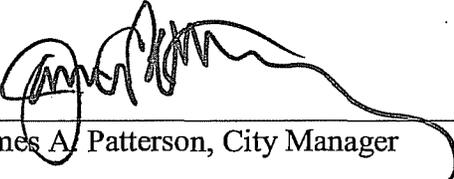
To apply for this grant, the City Council must approve a resolution that:

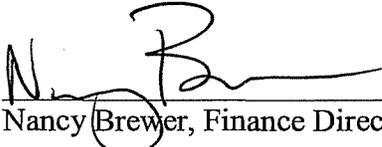
1. Grants authority to the City Manager to enter into an agreement with the Bureau of Reclamation;
2. Expresses support from the City Council for the application;
3. Shows the capability of the City of Corvallis to fulfill its in-kind contributions; and
4. Shows that the City will strive to meet established deadlines for entering into a cooperative agreement with the Bureau of Reclamation.

Recommendation:

Staff recommends that the City Council adopt the resolution (attached).

Reviewed and concur:


James A. Patterson, City Manager


Nancy Brewer, Finance Director

RESOLUTION 2013-

A resolution submitted by Councilor _____.

Minutes of the meeting of _____, 2013.

WHEREAS, the City of Corvallis has applied for a grant in the amount of \$299,998 from the Bureau of Reclamation to procure contract services and supplies to implement the WaterSMART Corvallis initiative, and;

WHEREAS, the grant application process requires an Official Resolution;

WHEREAS, the City supports the efforts outlined in the grant application;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES to grant authority to the City Manager to enter into an agreement with the Bureau of Reclamation, to support the WaterSMART program application submitted by the City of Corvallis, to ensure the capability of the City of Corvallis to fulfill its in-kind contributions, and support efforts to meet established deadlines for entering into a cooperative agreement with the Bureau of Reclamation.

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

COUNCIL REQUESTS

FOLLOW-UP REPORT

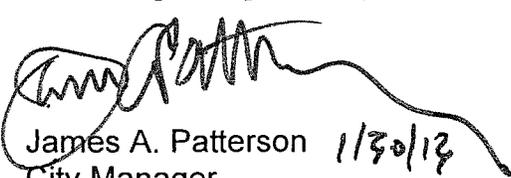
JANUARY 31, 2013

1. Business Operating from Private Residence – Ward 8 (Traber)

The attached memorandum from Community Development Director Gibb responds to concerns regarding a business operating from a private residence.

2. 2006 Land Development Code Amendment Increasing Residential Density Limits and Development Moratorium (Hervey)

The attached memorandum from Community Development Director Gibb explains the 2006 Land Development Code amendments regarding density calculations. The attached memorandum from Deputy City Attorney Brewer explains State laws regarding development moratoriums.


James A. Patterson 1/30/13
City Manager

MEMORANDUM

DATE: January 30, 2013
TO: Mayor and City Council
FROM: Ken Gibb, Community Development Director
RE: Council Request – Business Operating from a Private Residence

Attached please find Community Development Staff's response to the information request from Councilor Traber regarding a business operating from a private residence.



**Community Development
Development Services Division**

501 SW Madison Avenue
P.O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6929
FAX: (541) 766-6936

Development.Services@ci.corvallis.or.us

TO: Ken Gibb, Community Development Director

FROM: Chris Westfall, Code Enforcement Supervisor

DATE: January 18, 2013

SUBJECT: 2668 NW Fireweed Place

I have been provided a copy of an anonymous complaint received by the City Manager's office on November 29, 2012 (see attached) alleging unapproved commercial activity occurring at the subject location.

The following information is provided in confirmation of the prior contacts received on this matter and to clarify the response and outcomes achieved by the Code Enforcement program.

- Code Enforcement received three previous complaints of essentially the same issues on July 2, September 6, and November 26 of 2012. Two of the complaints were provided as confidential and one was anonymous.
- A site inspection was conducted on November 30, 2012. There were three residents and one employee at a DHS regulated 24-Hour Residential Service Facility.
- Operation of a residential care home (5 or fewer individuals) may occur in any residential zone as long as that use complies with ORS 197.660-.667 and OAR 411-323 & 325. These uses are identified under state land use policy as Special Residences.
- The location is situated in a Planned Development, RS-9 zone (see attached).
- Under Land Development Code Section 1.6 the Residential Care Home-Special Residence use is identified as constituting a Family by definition, accommodating up to 5 unrelated adult occupants and any number of care staff.
- The subject operation is duly licensed by DHS. The operation of this facility is limited to 3 adults as a condition of the license (see attached); site staff work in shifts to provide continuous cover and do not reside on the premises.
- Since the primary activity on the premises is occupancy by a family it is a Residential Use type, not a home business or commercial activity.
- The Special Residence land use activity at subject location has been determined to comply with the Land Development Code.

RECEIVED

NOV 29 2012

CITY MANAGERS
OFFICE

Corvallis City Council Members and City Lawyer
Box 1083
Corvallis, Oregon 97339

November 23, 2012

If I recall, the Corvallis City regulations regarding operating a business in a Single-Family Residential area says a business can be run in that zone providing there is no sign indicating a business, there is no traffic disruption, that people coming and going should not be excessively obvious. The other rule, I believe, is there should not be lots of unrelated people living in the house. The below mentioned business needs to be moved:

--Business location: 2668 NW Fireweed Place. This is a 3 bedroom 2 bath rental -- formerly used for a single family since it was built. The owner lives elsewhere.

--I do not make it a habit of 24 hour surveillance, but I do look out my window on occasion (maybe 20 minutes out of a 24 hour day).

Disruptive Incidences:

--Police appeared on 9/28/12 but had to park on next block because there were seven vehicles parked in front of 2668 NW Fireweed (along Tamarack Drive). Police person had to walk to the house to speak to a person who came out of the house and walked with the policeman to a red car at the end of the line of cars near Ginseng—the next street. I do not know who called the police or what was said.

--Two Police cars came at 9 PM (dark) on 11/22/12. I know this because there was much slamming of doors which prompted me to get up and go outside and look. I do not know who called the police or what was occurring.

--I happened to look outside (on 10/19/12) to see a "patient" (word used loudly by a "caregiver/attendant") running across the road to 2667 NW Fireweed Place and then trying to get into that house where a woman was day-sleeping. Fortunately the door was locked. The "Attendant" to the patient ran after the patient and walked him back to 2668 NW Fireweed. This is a Major disruption and should not be tolerated.

--Three neighbors occasionally hear disruptive crying coming from the house.

--Sometimes there are seven or more cars (business meeting time??). Usually there are 4, two of which are parked halfway down Fireweed occupying spaces designed for families in that cul-de-sac. A white Ford Expedition (Oregon license 725 CQQ) is the transport car parked on Tamarack and has created disruption (11/9/12) by driver backing up and "burning rubber" at the same time. Ford appears to come and go all day long.

Note: One wonders what goes on when the home owners in the neighborhood are not looking or listening!

This Business needs to be moved to a Business district close to medical facilities and the police. Surveillance and sedation and door locks are now not adequate. The business occupants pose danger to the neighborhood. A police officer once said that the "socially challenged" can become violent on occasion. Therefore, there is a need for "one caregiver per one patient at all times". The caregiver should be VERY strong to restrain some very large/heavy patients. Besides dangerous, the present situation is a nuisance.

RECEIVED

BY:.....

City Zoning may be subject to (?) not enforcing a zoning law or ignoring common law
—and responsible for tort of private nuisance.



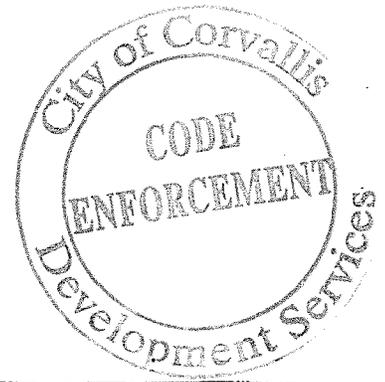
PAGE 2/2

City of Corvallis
Development Services
Code Enforcement
1000 1st St
Corvallis, OR 97331
503.838.3100



Oregon Department of Human Services
 Seniors and People with Disabilities
 Office of Licensing and Quality of Care

COPY



Agency Certificate
Developmental Disability Services

This certificate signifies that:

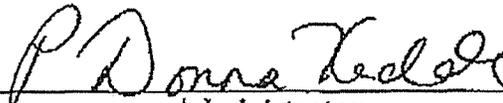
Personalized Independence, Inc.
 DZ3021

Is in substantial compliance with OAR chapter 411, division 323, and is hereby granted the following endorsements to provide services:

24 Hour Residential Services
 OAR 411-325-0010 through 411-325-0440
**Each 24 Hour site will be individually licensed.*

Effective Date: January 25, 2012 Expiration Date: January 25, 2017

This Certificate of Endorsement is non-transferable.


 Administrator





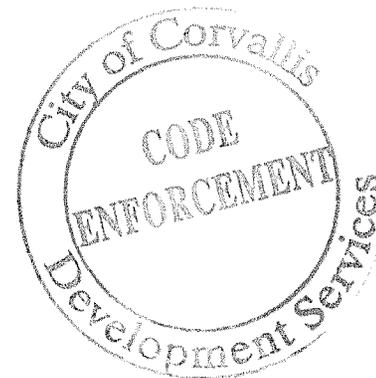
COPY

Oregon Department of Human Services
Office of Licensing and Regulatory Oversight

24-Hour Residential Facility License

Developmental Disability Services

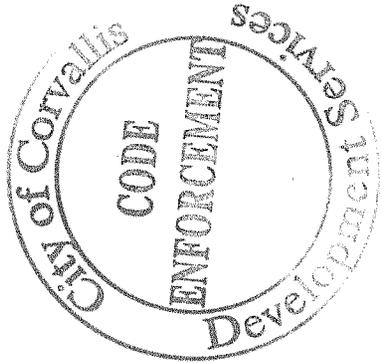
Agency Name: Personalized Independence, Inc.
License Status: Initial
Site: 2668 NW Fireweed Pl, Corvallis, OR 97330
DD Site Number: DD3058
Fire Level: R-3
Ages Served: 18 Years & Older
Capacity: 3
Expiration Date: June 14, 2014



This License is non-transferable.

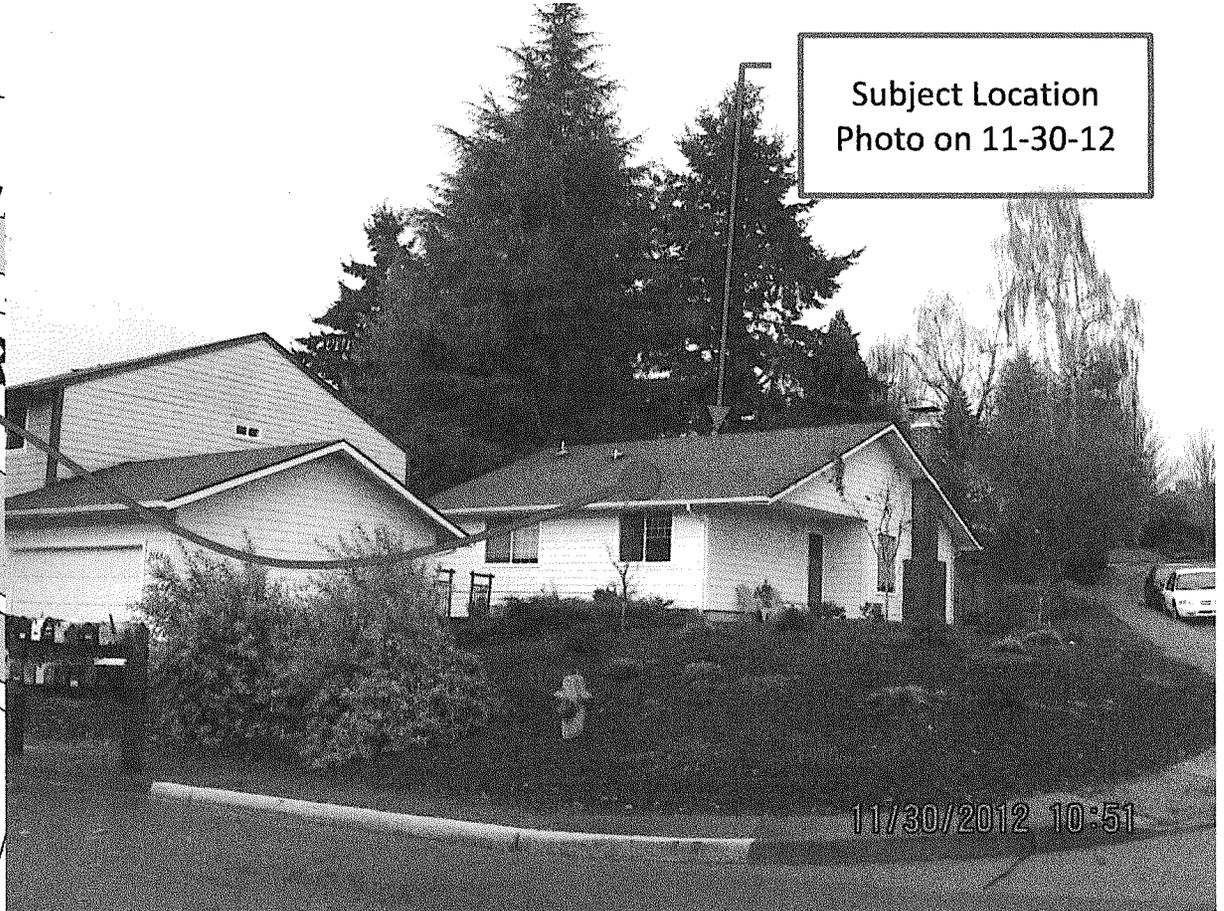
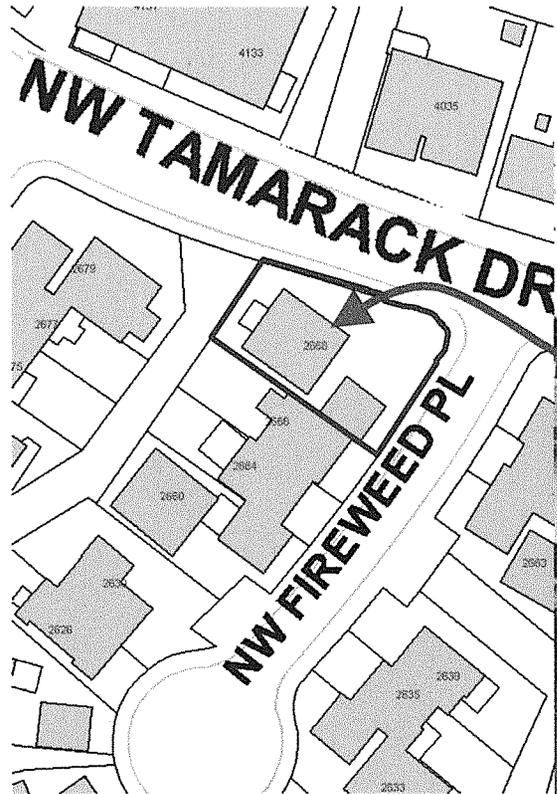
P. Donna Keedy
Director





2668 NW Fireweed Place Planned Development RS-9 Zone

Subject Location
Photo on 11-30-12



MEMORANDUM

DATE: January 30, 2013
TO: Mayor and City Council
FROM: Ken Gibb, Community Development Director 
RE: Council Request – rounding of density calculations & moratorium information

BACKGROUND:

Council requested follow-up information related to testimony received at the January 22, 2013 City Council meeting from Mr. Jeff Hess that addressed how residential densities are calculated. Mr. Hess also requested that the City Council hold a public hearing on a proposal to institute a development moratorium.

DISCUSSION:

In his written communication, Mr. Hess stated that:

“In 2008 the Corvallis city council amended the local Land Development Code (LDC) in such a way that the maximum development density allowed in each zone district was doubled while the stated maximum density remained the same. It's believed this amendment was a mistake passed without council appreciating the impact of what they were voting for. Because the amendment introduced rounding in the definition of "Density Calculation", the maximum density now changes with the number of units built. For example, a duplex in RS-9 now has a maximum allowed density of 16 units/acre while a single unit has a maximum allowed density of 24 units/acre. Meanwhile the LDC continues to state the pre-2008 maximum of 12 units/acre”

Actually, rounding related to density calculations was adopted into the LDC **prior** to 2008. The 2008 LDC amendments addressed rounding related to other LDC calculations. Staff notes that part of the 2008 LDC amendment package was dropped because of a LUBA appeal and therefore the rounding methodology was not expanded beyond the previously legislated density calculations.

There were two previous LDC changes that addressed density calculations, both of which became effective in the 2006 LDC Update package implementation. First, as part of the 2000 LDC Update Phase 1, the methodology to calculate gross density for a Minor Land Partition site was changed to include in their acreage calculation 50 percent of the area of any street rights-of-way that front the subject site (for the distance the streets front the subject site). Also, a definition of net density was developed to “net” out that portion(s) of a development site that was precluded from development, e.g. natural features protection areas or conservation areas.

Secondly, as part of the 2004 LDC Phase III Update (also included in the 2006 LDC Update implementation package but worked on in the early 2000s), the following provision was added to the density calculation language:

When the sum of the dwelling units is a fraction of a dwelling unit, and the fraction is equal to or greater than 0.5, an additional dwelling unit shall be required (minimum density) or allowed (maximum density). If the fraction is less than 0.5, an additional dwelling unit shall not be required or allowed.

We haven't been able to fully review the extensive background material (thousands of pages) related to both of these projects but based on the review to date and in talking with former staff members who worked on this project, these changes officially ratified past practice, i.e. using the mathematical approach of rounding to the nearest whole number and/or addressed the City's long stated policies of encouraging compact and efficient use of land and providing more affordable housing opportunities.

The 2004 rounding approach as it applies to density calculations does not "double density" on a wholesale basis. In certain circumstances, the rounding approach would allow two dwelling units where one would otherwise be allowed. However, for calculations of density with a maximum allowed density that is more than two units, the difference between a result reached by rounding vs. a result reached by allowing the nearest whole number would never be more than one unit. In approximately half of these instances (i.e. where the result contains a fraction less than $\frac{1}{2}$ unit) the result of the density calculation with rounding would be the same as the nearest whole number method because in both instances staff would round down to the nearest whole number. Because of this, the effect of "rounding" is most acute for small infill properties, where the difference between one and two dwelling units has the most impact. The Neighborhood Planning Work Group is currently exploring a number of potential measures that would address the compatibility of small infill development, in addition to the change in parking requirements for four- and five-bedroom dwelling units that has already been put in place.

The provisions in the 2000 and 2004 LDC Phases I and III Update packages (implemented in 2006) were conducted through an extensive and open public process that directly involved many community members, Planning Commissioners and City Councilors as project work group members. The work product was subject to public workshops and hearings, with several opportunities for public input. The density calculation changes were publicly available although they didn't get as much attention as other portions of very large packages. There may be perspectives that view the results of these changes as having unintended consequences a decade later, but the changes were intentional, i.e. not an oversight, and designed as a mechanism to assist decision makers and the public in determining density standards and to implement Comprehensive Plan policies.

The Avery Addition Neighborhood Association has submitted a list of proposals to the Collaboration Corvallis' Neighborhood Planning Work Group. This list includes a proposal to change the LDC to not allow rounding as it pertains to density calculations.

The Neighborhood Planning Work Group is currently looking at the concept of neighborhood oriented design standards which in part respond to some of the other suggestions from the Avery Addition group and other members of the public. Staff notes that the Work Group will review the rounding issue during the month of February.

Mr. Hess also requested that the City Council place a 120 day moratorium on development. Attached is memorandum from the City Attorney's Office related to moratoria. This memorandum was distributed in early 2012 in response to questions about the legal aspects of a local government declaring a moratorium.

MEMORANDUM

To: Ken Gibb, Community Development Department Director
From: Jim Brewer, Deputy City Attorney
Date: February 3, 2012
Subject: Moratorium

Issue:

In the light of higher student enrollment at Oregon State University, community concerns about in-fill projects attractive to OSU students being developed in residential zones relatively close to the OSU main campus, the joint City of Corvallis/OSU efforts to address these concerns, and citizens' suggestions and questions regarding the possibility of the City adopting a moratorium on building these developments, you asked about the process that would be required, and what the likely challenges in adopting such a moratorium would be.

Summary:

Oregon law sets out specific requirements and a land use process for declaring a moratorium. ORS 197.520 is the relevant section. I've cut and pasted it below. The City is required to follow the process set out in that statute.

In summary, moratoria may only be 120 days long, with an extension(s) not longer than an additional 180 days (total). In urban areas, moratoria are intended to allow time to implement plans or regulations to prevent a shortage of public facilities which would otherwise occur during the effective period of the moratorium OR to prevent irrevocable public harm from development in affected geographical areas. The process for a moratorium does require a public hearing, the adoption of specific findings, and the usual 45 day notice to DLCDC prior to the final public hearing.

If the moratorium is proposed based on public harm, the moratorium must be limited to ensure that a needed supply of affected housing types and supply of commercial and industrial facilities are not unreasonably restricted.

Procedurally, if the City were to consider a moratorium, the City would need to follow the quasi-judicial land use process, and the decision made at the end of that process is subject to appeal to the State Land Use Board of Appeals and the judicial system. In addition to participants in those

public hearings having standing to appeal a decision on a moratorium, the Oregon Department of Conservation and Land Development has the ability to appeal the decision if it chooses to do so. Under Oregon law (ORS 227.178— sometimes known as the “goal post rule”), any changes in regulations and procedures adopted during the moratorium would still apply to only those applications for development that were completed *after* the changes were adopted. Applications already in place would need to proceed under the regulations and procedures in place at the time of the application.

Adopting a moratorium requires the City to adopt findings, supported by substantial evidence in the record, that explain why alternate methods to address the problems won't work, along with findings that resources are available during the moratorium to develop changes in facility plans, regulations and procedures to resolve the problems with the facilities or that create the public harm, so that development may occur.

Assuming there is active opposition to a moratorium, most of the challenges in developing findings supporting a moratorium stem from conflicts with the findings, record, policies and land use regulations adopted as part of the relatively recent, lengthy and exhaustive work completed during periodic review. Again, assuming there is opposition to a moratorium, challenges in adopting and enforcing a moratorium in Corvallis include:

- 1) developing substantial evidence to support making findings that there is a shortage of public facilities serving the areas, particularly as we would anticipate opponents to demonstrate that the current zoning was developed based on findings and facility plans that demonstrate that the public facilities are available;
- 2) developing substantial evidence that there is irrevocable public harm from development in the affected areas, particularly as we would anticipate opponents to demonstrate that the current zoning allows (and encourages higher density development) and that the current zoning is supported by findings in the Comprehensive Plan;
- 3) developing substantial evidence that a moratorium on higher density housing, for example, is limited in a way that ensures a needed supply of affected housing types, particularly as we would anticipate opponents to demonstrate that the City's facility plans, urban growth boundary and Comprehensive Plan was established making assumptions that denser residential development and redevelopment would occur within the current residential zones;
- 4) developing substantial evidence that a moratorium on higher density housing, for example, is limited in a way that ensures a needed supply of affected housing types, particularly as we would expect opponents to demonstrate that OSU's enrollment increases and physical plan capacity increases are reducing the supply of affected housing types.
- 5) completing and implementing the legislative land use planning process required to address the inadequacy of the public facilities or the irrevocable public harm within the moratorium timeframe. 120 days extended by another 180 days seems like sufficient time to follow the required processes and enact plans and ordinances. These plans and ordinances would still be subject to appeal to LUBA and the judicial system. While these plans and ordinances are under appeal, a motivated opponent could delay the implementation of the new plans or ordinances for a considerable amount of time, allowing applications to be filed under the current plans and regulations during the stay.

Statute:

197.520. Moratorium declarations

(1) No city, county or special district may adopt a moratorium on construction or land development unless it first:

(a) Provides written notice to the Department of Land Conservation and Development at least 45 days prior to the final public hearing to be held to consider the adoption of the moratorium;

(b) Makes written findings justifying the need for the moratorium in the manner provided for in this section; and

(c) Holds a public hearing on the adoption of the moratorium and the findings which support the moratorium.

(2) For urban or urbanizable land, a moratorium may be justified by demonstration of a need to prevent a shortage of public facilities which would otherwise occur during the effective period of the moratorium. Such a demonstration shall be based upon reasonably available information, and shall include, but need not be limited to, findings:

(a) Showing the extent of need beyond the estimated capacity of existing public facilities expected to result from new land development, including identification of any public facilities currently operating beyond capacity, and the portion of such capacity already committed to development;

(b) That the moratorium is reasonably limited to those areas of the city, county or special district where a shortage of key public facilities would otherwise occur; and

(c) That the housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining public facility capacity.

(3) A moratorium not based on a shortage of public facilities under subsection (2) of this section may be justified only by a demonstration of compelling need. Such a demonstration shall be based upon reasonably available information and shall include, but need not be limited to, findings:

(a) For urban or urbanizable land:

(A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;

(B) That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;

(C) Stating the reasons alternative methods of achieving the objectives of the moratorium are

unsatisfactory;

(D) That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and

(E) That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

(b) For rural land:

(A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;

(B) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;

(C) That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and

(D) That the city, county or special district proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

(4) No moratorium adopted under subsection (3)(a) of this section shall be effective for a period longer than 120 days, but such a moratorium may be extended provided the city, county or special district adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:

(a) Verify the problem giving rise to the need for a moratorium still exists;

(b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and

(c) Set a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.

(5) Any city, county or special district considering an extension of a moratorium shall give the department at least 14 days' notice of the time and date of the public hearing on the extension.

Laws 1980, c. 2, § 3; Laws 1991, c. 839, § 3; Laws 1995, c. 463, § 3.

**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 |
|---|---------------------|------------------------|---------------------------|--------------------|-------------------------------|-----------------|
| Business operating from private residence – Ward 8 | Traber | 12-03-12 | 01-29-13 | Gibb | ccr 01-31-13 | |
| City costs of requiring digital images of buildings with demolition permit applications | Beilstein | 01-22-13 | 02-12-13 | Gibb | | |
| 2006 Land Development Code amendment increasing residential density limits and development moratorium | Hervey | 01-22-13 | 02-12-13 | Gibb | ccr 01-31-13 | |
| Development requirements in Riverfront District | Hervey | 01-22-13 | 02-12-13 | Gibb | | |

**ADMINISTRATIVE SERVICES COMMITTEE
SCHEDULED ITEMS**

January 31, 2013

| MEETING DATE | AGENDA ITEM |
|--------------|---|
| February 6 | No meeting |
| February 20 | <ul style="list-style-type: none"> • Utility Rate Structure Study Review • NW Natural Lease Agreement • Council Policy Review and Recommendation: <ul style="list-style-type: none"> • CP 97-10.01 - 10.08, "Financial Policies" |
| March 6 | <ul style="list-style-type: none"> • Second Quarter Operating Report • Downtown Corvallis Association Second Quarter Report • Visit Corvallis Second Quarter Report |
| March 20 | <ul style="list-style-type: none"> • Ambulance Rate Review • Council Policy Review and Recommendation: <ul style="list-style-type: none"> • CP 07-1.10, "Advertising on Corvallis Transit System Buses" |
| April 3 | |
| April 17 | <ul style="list-style-type: none"> • Municipal Code Chapter 8.14, "Single-Use Plastic Carryout Bags" Update |
| May 8 | |
| May 22 | <ul style="list-style-type: none"> • Visit Corvallis Third Quarter Report |
| June 5 | <ul style="list-style-type: none"> • Third Quarter Operating Report |
| June 19 | <ul style="list-style-type: none"> • Allied Waste Services Annual Report |
| July 3 | |
| July 17 | |
| August 7 | <ul style="list-style-type: none"> • Council Policy Review and Recommendation: <ul style="list-style-type: none"> • CP 91-3.02, "City Compensation Policy" |
| August 21 | |
| September 4 | <ul style="list-style-type: none"> • Visit Corvallis Fourth Quarter Report |
| September 18 | |
| October 9 | <ul style="list-style-type: none"> • Fourth Quarter Operating Report • Council Policy Reviews and Recommendations: <ul style="list-style-type: none"> • CP 92-1.05, "Miscellaneous Property Ownership" • CP 94-2.09, "Council Orientation" |
| October 23 | <ul style="list-style-type: none"> • Utility Rate Annual Review • Council Policy Reviews and Recommendations: <ul style="list-style-type: none"> • CP 04-1.09, "Public Access Television" • CP 91-3.04, "Separation Policy" |
| November 6 | |
| November 20 | |
| December 4 | <ul style="list-style-type: none"> • Visit Corvallis First Quarter Report • Comprehensive Annual Financial Report • First Quarter Operating Report |
| December 18 | |

ASC PENDING ITEMS

- | | |
|--|--|
| <ul style="list-style-type: none"> • Comcast Franchise Renewal Update • Council Policy Review and Recommendation: <ul style="list-style-type: none"> • CP 96-6.03, "Economic Development Policies" • Economic Development Policy on Tourism • Municipal Code Review: Chapter 4.01, "Solid Waste Regulations" | <p>Public Works</p> <p style="text-align: right;">CMO</p> <p>Community Development</p> <p>Public Works</p> |
|--|--|

Regular Meeting Date and Location:

Wednesday of Council week, 3:30 pm – Madison Avenue Meeting Room

HUMAN SERVICES COMMITTEE SCHEDULED ITEMS

January 31, 2013

| MEETING DATE | AGENDA ITEM |
|--------------|--|
| February 5 | No meeting |
| February 19 | <ul style="list-style-type: none"> • Social Services Semi-Annual Report |
| March 5 | <ul style="list-style-type: none"> • The Arts Center Annual Report • Public Art Selection Commission Annual Report |
| March 19 | <ul style="list-style-type: none"> • Heritage Tree Program |
| April 2 | |
| April 16 | |
| May 7 | <ul style="list-style-type: none"> • Liquor License Annual Renewals • Majestic Theatre Annual Report |
| May 21 | |
| June 4 | <ul style="list-style-type: none"> • Social Services Allocations – Fiscal Year 2013-2014 • Boards and Commissions Sunset Reviews: <ul style="list-style-type: none"> • Corvallis-Benton County Public Library Board • Commission for Martin Luther King, Jr. |
| June 18 | |
| July 2 | <ul style="list-style-type: none"> • Corvallis Farmers' Market Annual Report |
| July 16 | <ul style="list-style-type: none"> • Council Policy Reviews and Recommendations: <ul style="list-style-type: none"> • CP 98-4.12, "Guidelines for Public Art Selection" • CP 07-4.15, "Use of Computer Lab Equipment and Public Internet Access at Senior Center" |
| August 6 | <ul style="list-style-type: none"> • Parks and Recreation Annual Fee Review |
| August 20 | <ul style="list-style-type: none"> • Social Services Semi-Annual Report |
| September 3 | |
| September 17 | <ul style="list-style-type: none"> • Rental Housing Program Annual Report |
| October 8 | <ul style="list-style-type: none"> • Council Policy Reviews and Recommendations: <ul style="list-style-type: none"> • CP 92-4.05, "Library Meeting Rooms Policy" |
| October 22 | |
| November 5 | |
| November 19 | |
| December 3 | <ul style="list-style-type: none"> • 2013-2014 Social Services Allocation Process and Calendar • Council Policy Reviews and Recommendations: <ul style="list-style-type: none"> • CP 07-4.16, "Code of Conduct for Patrons at Parks and Recreation Facilities, Events, and Programs" • CP 92-5.04, "Hate/Bias Violence" |
| December 17 | |

HSC PENDING ITEMS

- Municipal Code Review: Chapter 5.01, "City Park Regulations" Parks & Recreation
(Alcoholic Beverages in Parks)
- Municipal Code Review: Chapter 5.03, "Offenses" (Alcohol Police
Minimum Fines/Social Host/Special Response Notices)
- Municipal Code Review: Chapter 5.03, "Offenses" (Smoking Police/City Attorney's Office
Enforcement Hiatus); Chapter 8.10, "Tobacco Retail Licenses"
- Municipal Code Review: Chapter 9.02, "Rental Housing Code" Community Development

Regular Meeting Date and Location:

Tuesday of Council week, 2:00 pm – Madison Avenue Meeting Room

**URBAN SERVICES COMMITTEE
SCHEDULED ITEMS**

January 31, 2013

| MEETING DATE | AGENDA ITEM |
|--------------|---|
| February 5 | No meeting |
| February 19 | No meeting |
| March 5 | <ul style="list-style-type: none"> • Systems Development Charge Annual Review • Council Policy Review and Recommendation: <ul style="list-style-type: none"> • CP 97-7.13, "Municipal Airport and Industrial Park Leases" |
| March 19 | <ul style="list-style-type: none"> • Total Maximum Daily Load (TMDL) Requirement Compliance |
| April 2 | <ul style="list-style-type: none"> • Council Policy Review and Recommendation: <ul style="list-style-type: none"> • CP 91-9.05, "Street Naming and Addressing Policies and Procedures" |
| April 16 | |
| May 7 | |
| May 21 | |
| June 4 | <ul style="list-style-type: none"> • Board and Commission Sunset Review: <ul style="list-style-type: none"> • Capital Improvement Program Commission |
| June 18 | |
| July 2 | |
| July 16 | |
| August 6 | |
| August 20 | |
| September 3 | No meeting |
| September 17 | |
| October 8 | <ul style="list-style-type: none"> • Council Policy Reviews and Recommendations: <ul style="list-style-type: none"> • CP 04-1.08, "Organizational Sustainability" • CP 91-7.07, "Sanitary Sewers; Responsibility for" • CP 05-7.17, "Utility/Transportation Facility Extensions Through Public Areas" • CP 91-9.03, "Parking Permit Fees" |
| October 22 | |
| November 5 | |
| November 19 | |
| December 3 | |
| December 17 | |

USC PENDING ITEMS

- | | |
|---|--|
| <ul style="list-style-type: none"> • 49th Street Annexation Explanatory Statement and Display Advertisement • Corvallis Forest Stewardship Plan Review and Recommendation • Municipal Code Review: Chapter 8.13, "Mobile Food Units" • NW Cleveland Avenue Traffic Update (February 2014) | <ul style="list-style-type: none"> Community Development Public Works Community Development Public Works |
|---|--|

Regular Meeting Date and Location:

Tuesday of Council week, 5:00 pm – Madison Avenue Meeting Room



UPCOMING MEETINGS OF INTEREST

City of Corvallis

FEBRUARY - APRIL 2013
(Updated January 31, 2013)

FEBRUARY 2013

| Date | Time | Group | Location | Subject/Note |
|------|-------------------|--|--|--|
| 1 | 7:00 am | Bicycle and Pedestrian Adv Cmsn | Madison Avenue Mtg Rm | |
| 2 | 10:00 am | Government Comment Corner | Library Lobby - Richard Hervey | |
| 4 | 6:00 pm | City Council | Downtown Fire Station | |
| 5 | 7:00 am | Airport Commission | Madison Avenue Mtg Rm | |
| 5 | | No Human Services Committee | | |
| 5 | 4:00 pm | Downtown Parking Committee | Downtown Fire Station | |
| 5 | | No Urban Services Committee | | |
| 5 | 5:30 pm | OSU/City Collaboration Project Neighborhood Planning Work Grp | Osborn Aquatic Center Activity Room | |
| 5 | 7:00 pm | City Council Work Session | Downtown Fire Station | department budget presentations |
| 6 | 3:00 pm | Community Police Review Board | Walnut Community Room | |
| 6 | | No Administrative Services Cmte | | |
| 6 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 6 | 7:30 pm | Library Board | Library Board Room | |
| 7 | 5:30 pm | OSU/City Collaboration Project Parking and Traffic Work Group | Madison Avenue Mtg Rm | |
| 9 | 10:00 am | Government Comment Corner | Library Lobby - Julie Manning | |
| 11 | 3:00 pm | Economic Development Cmsn | Madison Avenue Mtg Rm | |
| 11 | 5:30 pm | OSU/City Collaboration Project Parking and Traffic Work Group | Madison Avenue Mtg Rm | |
| 11 | 7:00 pm | Joint City Council/Planning Commission Work Session | Downtown Fire Station | Airport Master Plan |
| 12 | 3:00 pm - 5:30 pm | City Council Orientation | Madison Avenue Mtg Rm | media, advisory boards and commissions |
| 12 | 5:30 pm | OSU/City Collaboration Project Neighborhood Livability Work Group | Osborn Aquatic Center Activity Room | |
| 12 | 6:00 pm | Historic Resources Commission | Downtown Fire Station | |
| 12 | 7:00 pm | City Council Work Session | Madison Avenue Mtg Rm | department budget presentations |
| 13 | 7:30 am | City Legislative Committee | City Hall Meeting Room A | |
| 13 | 8:20 am | Citizens Advisory Cmsn on Transit | Madison Avenue Mtg Rm | |
| 13 | 5:30 pm | Downtown Commission | Madison Avenue Mtg Rm | |
| 13 | 5:30 pm | Economic Development Commission | Linus Pauling Science Center, Room 402 | |
| 14 | 8:30 am | Citizens Advisory Cmsn on Civic Beautification and Urban Forestry | Parks and Rec Conf Room | |
| 15 | 7:30 am | Investment Council | Madison Avenue Mtg Rm | |
| 16 | | No Government Comment Corner | | |
| 18 | | City Holiday – all offices closed | | |
| 19 | 2:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 19 | | No Urban Services Committee | | |
| 19 | 5:30 pm | OSU/City Collaboration Project Neighborhood Planning Work Grp | Osborn Aquatic Center Activity Room | |

| | | | |
|----|----------|--|---|
| 19 | 5:30 pm | City Council Executive Session | Downtown Fire Station |
| 19 | 6:00 pm | City Council | Downtown Fire Station |
| 20 | 12:00 pm | Housing and Comm Dev Cmsn | Madison Avenue Mtg Rm |
| 20 | 3:30 pm | Administrative Services Committee | Madison Avenue Mtg Rm |
| 20 | 5:30 pm | Arts and Culture Commission | Parks and Rec Conf Room |
| 20 | 7:00 pm | Planning Commission | Downtown Fire Station |
| 21 | 5:30 pm | OSU/City Collaboration Project Parking and Traffic Work Group | <i>TBD</i> |
| 21 | 6:30 pm | Parks, Natural Areas, and Rec Brd | Downtown Fire Station |
| 23 | 10:00 am | Government Comment Corner | Library Lobby - <i>Penny York</i> |
| 26 | 5:00 pm | Cmsn for Martin Luther King, Jr. | Madison Avenue Mtg Rm |
| 26 | 5:30 pm | OSU/City Collaboration Project Neighborhood Livability Work Group | Osborn Activity Room |
| 27 | 5:00 pm | Watershed Mgmt Advisory Cmsn | Downtown Fire Station |
| 27 | 5:30 pm | City Council Work Session | Madison Avenue Mtg Rm goals refinement |

MARCH 2013

| Date | Time | Group | Location | Subject/Note |
|-------------|----------------------|--|-----------------------------------|---------------------|
| 1 | 7:00 am | Bicycle and Pedestrian Adv Cmsn | Madison Avenue Mtg Rm | |
| 2 | 10:00 am | Government Comment Corner | Library Lobby - Bruce Sorte | |
| 4 | 6:00 pm | City Council | Downtown Fire Station | |
| 5 | 7:00 am | Airport Commission | Madison Avenue Mtg Rm | |
| 5 | 2:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 5 | 4:00 pm | Downtown Parking Committee | <i>Downtown Fire Station</i> | |
| 5 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 6 | 3:30 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 | |
| 9 | 10:00 am | Government Comment Corner | Library Lobby - <i>Penny York</i> | |
| 11 | 3:00 pm | Economic Development Cmsn | Madison Avenue Mtg Rm | |
| 11 | 7:00 pm | Mayor/City Council/City Manager Quarterly Work Session | Madison Avenue Mtg Rm | tentative |
| 12 | 6:00 pm | Historic Resources Commission | Downtown Fire Station | |
| 13 | 7:30 am | City Legislative Committee | City Hall Meeting Room A | |
| 13 | 8:20 am | Citizens Advisory Cmsn on Transit | Madison Avenue Mtg Rm | |
| 13 | 5:30 pm | Downtown Commission | Madison Avenue Mtg Rm | |
| 14 | 8:30 am | Citizens Advisory Cmsn on Civic Beautification and Urban Forestry | Parks and Rec Conf Room | |
| 16 | 10:00 am | Government Comment Corner | Library Lobby - Biff Traber | |
| 18 | 2:30 pm - 5:00 pm | OSU/City Collaboration Project <i>Steering Committee</i> | <i>Downtown Fire Station</i> | |
| 18 | 6:00 pm | City Council | Downtown Fire Station | |
| 19 | 2:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 19 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 20 | 12:00 pm | Housing and Comm Dev Cmsn | Madison Avenue Mtg Rm | |
| 20 | 3:30 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 20 | 5:30 pm | Arts and Culture Commission | Parks and Rec Conf Room | |
| 20 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 21 | 6:30 pm | Parks, Natural Areas, and Rec Brd | Downtown Fire Station | |
| 23 | 10:00 am | Government Comment Corner | Library Lobby - <i>TBD</i> | |
| 26 | 5:00 pm | Cmsn for Martin Luther King, Jr. | Madison Avenue Mtg Rm | |
| 27 | 5:00 pm | Watershed Management Adv Cmsn | Madison Avenue Mtg Rm | |

30 10:00 am Government Comment Corner Library Lobby - Mike Beilstein

APRIL 2013

| Date | Time | Group | Location | Subject/Note |
|-------------|----------------|---|------------------------------------|---------------------|
| 1 | 6:00 pm | City Council | Downtown Fire Station | |
| 2 | 7:00 am | Airport Commission | Madison Avenue Mtg Rm | |
| 2 | 2:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 2 | 4:00 pm | Downtown Parking Committee | <i>Downtown Fire Station</i> | |
| 2 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 3 | 3:30 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 3 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 3 | 7:30 pm | Library Board | Library Board Room | |
| 6 | 10:00 am | Government Comment Corner | Library Lobby - <i>Hal Brauner</i> | |
| 8 | 3:00 pm | Economic Development Cmsn | Madison Avenue Mtg Rm | |
| 9 | 6:00 pm | Historic Resources Commission | Downtown Fire Station | |
| 9 | 7:00 pm | Ward1 meeting (York) | TBD | City sponsored |
| 10 | 7:30 am | City Legislative Committee | City Hall Meeting Room A | |
| 10 | 8:20 am | Citizens Advisory Commission on Transit | Madison Avenue Mtg Rm | |
| 10 | 5:30 pm | Downtown Commission | Madison Avenue Mtg Rm | |
| 11 | 8:30 am | Citizens Advisory Cmsn on Civic Beautification and Urban Forestry | Parks and Rec Conf Room | |
| 13 | 10:00 am | Government Comment Corner | Library Lobby - TBD | |
| 15 | 6:00 pm | City Council | Downtown Fire Station | |
| 16 | 2:00 pm | Human Services Committee | Madison Avenue Mtg Rm | |
| 16 | 5:00 pm | Urban Services Committee | Madison Avenue Mtg Rm | |
| 17 | 12:00 pm | Housing and Comm Dev Cmsn | Madison Avenue Mtg Rm | |
| 17 | 3:30 pm | Administrative Services Committee | Madison Avenue Mtg Rm | |
| 17 | 5:30 pm | Arts and Culture Commission | Parks and Rec Conf Room | |
| 17 | 7:00 pm | Planning Commission | Downtown Fire Station | |
| 18 | 6:30 pm | Parks, Natural Areas, and Rec Brd | Downtown Fire Station | |
| 20 | 10:00 am | Government Comment Corner | Library Lobby - <i>Penny York</i> | |
| 23 | 5:00 pm | Cmsn for Martin Luther King, Jr. | Madison Avenue Mtg Rm | |
| 23 | 7:00 pm | Budget Commission | Downtown Fire Station | |
| 24 | 5:00 pm | Watershed Mgmt Advisory Cmsn | Madison Avenue Mtg Rm | |
| 27 | 10:00 am | Government Comment Corner | Library Lobby - TBD | |
| 30 | 7:00 pm | Budget Commission | Downtown Fire Station | |

Bold type - involves the Council ~~Strikeout type~~ - meeting canceled *Italics type* - new meeting

TBD - To be Determined PC - Planning Commission HRC -Historic Resources Commission

MEMORANDUM

January 29, 2013

TO: Mayor and City Council

FROM: Nancy Brewer, Finance Director 
Mary Beth Altman Hughes, Human Resources Manager 

SUBJECT: Municipal Court Judge Recruitment

I. Issue

Define the process to follow for recruitment of a Municipal Court Judge.

II. Background

Municipal Court Judge Mark Donahue has notified the Mayor and City Council that he does not intend to continue as the Judge after his current contract term expires on June 30, 2013. The Judge is one of the Charter identified direct City Council appointees (the other two being the City Attorney and the City Manager) so it is the City Council's purview to define the selection process to follow (Charter language is in Attachment 1).

III. Discussion

Judge Donahue was appointed to the bench in 1995 following the untimely death of Judge Don Todorovich. When Judge Donahue was selected there was a recruitment process with an ad in the paper, and opportunities for the City Council to receive comments from the public and staff about the Judge prior to interviewing potential candidates. An outline of the process, including the ad, ideas about how to publicize the position, and supplemental questions to be submitted in writing is included as Attachment 2.

The City Attorney provided some assistance in the 1995 selection process by serving as one member of the staff group that evaluated applications and by checking with the Oregon Bar to ensure the applicants were members in good standing. Otherwise, the City Attorney did not participate in the process due to potential conflicts of interest (i.e., the City Attorney's Office prosecutes cases in Municipal Court) and is not expected to participate any differently in this process.

Factors the City Council may wish to consider in a recruitment process include:

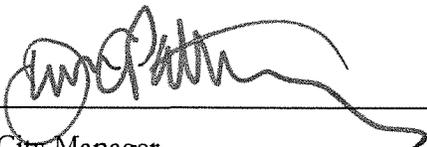
- Method of Appointment – The City Council can directly appoint any person the Council deems to be a suitable candidate, or may solicit the market to obtain a list of potential candidates who show an interest in the position.
- Qualifications – the job recruitment flyer from the last solicitation is included in Attachment 2. Council can consider whether they wish to add/remove/change any of the qualifications used last time.
- Public Input – for the last recruitment Council provided an opportunity for citizens and staff to give feedback on the qualifications and/or expectations for a Municipal Court Judge. This step could occur prior to initiating a recruitment, or there could be a public reception for finalists, as has been done for City Manager and Department Director candidates.

- Partnerships – for the last recruitment the City Council discussed whether a common Judge for Corvallis and Philomath would be beneficial, and so a dual recruitment was initiated. At this time, none of the neighboring communities is looking for a Judge, but Council could interview Philomath and/or Albany’s current Judges to see if either are interested in a direct appointment or in providing information to the City Council about Municipal Court. For a number of years, Judge Donahue was the Judge in both Corvallis and Philomath.
- Criteria – the last recruitment process defined criteria to use so that staff could do a first review of applications and rule out candidates who did not meet the Council’s basic criteria (in Attachment 3). The same criteria can be used, or these can be revised by City Council. The Council, members of ASC, or Council leadership may wish to meet with Judge Donahue to see if he has any input into selection criteria or process for a replacement
- Compensation – the compensation for the Municipal Court Judge is set by the City Council. Staff was planning to do a survey of comparable entity’s courts for some work load and compensation data in advance of the expected contract re-negotiation with Judge Donahue. Council may wish to consider what language about compensation, if any, it wishes to place in the solicitation document. A copy of Judge Donahue’s current contract is included as Attachment 4, and a draft of the survey is included as Attachment 5.
- Interview process – in the last selection process the City Council held interviews with the finalists, much as they do with Planning Commission candidates. The interview questions the Council used in 1995 are included as Attachment 6; the Committee/Council may wish to revise/delete/add to these interview questions.
- Responsibilities of various parties – staff from the Human Resources and Finance Departments can provide support for the recruitment/selection process, including publishing ads, sending letters, collecting applications, and if the Council desires doing a preliminary selection process to get to a short list of qualified candidates to interview. The City Council as a whole will do the interviews, but the Council may want to have either ASC or Council Leadership work with staff to develop criteria, interview questions, etc. In the past, the City Council has provided direction to the Council President for negotiating a contract with a selected candidate.
- Timeline – the current Judge will serve until June 30. A preferred time line would be to have a new Judge selected and ready to begin on July 1; if that time line cannot be achieved, Council will need to consider an interim agreement with a *pro tempore* Judge.

IV. Requested Action

Members of the City Council are asked to develop direction for recruitment and selection of a new Municipal Court Judge, with a time line to have the new Judge start July 1.

Review and Concur:



City Manager

Corvallis Charter

Section 24. Municipal Judge. The Municipal Judge shall be the judicial officer of the City. The Judge shall be appointed and may be removed by the Council. The Judge shall hold within the City a court known as the Municipal Court for the City of Corvallis, Benton County, Oregon. Except on nonjudicial days the Court shall be open for the transaction of judicial business. All area within the City and all property owned or controlled by the City shall be within the territorial jurisdiction of the Court. The Municipal Judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by an ordinance of the City. The Municipal Judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the City, to commit any such person to jail or admit her or him to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in Court on the trial of any cause before the Municipal Judge, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the Court, and to punish witnesses and others for contempt of Court. Notwithstanding any other provision of this section to the contrary, the functions of the Municipal Judge and Municipal Court may be fulfilled by a State court when so appointed and designated by the Council. The City may have the duties of the Municipal Judge performed by the regular and pro tempore judges of a State court.

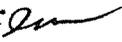
When not governed by ordinance or this Charter, all proceedings in the Municipal Court for the violation of a City ordinance shall be governed by the applicable general laws of the State governing justices of the peace and justice courts.

[As amended by general election held November 6, 1984; and general election November 7, 2006 (section renumbered).]

ATTACHMENT 1

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

March 16, 1995

TO: Administrative Services Committee
FROM: Ellen Volmert, Assistant City Manager 
SUBJECT: MUNICIPAL JUDGE RECRUITMENT

ISSUE

This report presents a draft recruitment plan and materials for the position of Municipal Judge and requests Committee comments and approval to move forward.

DISCUSSION

At the last Administrative Services Committee meeting, staff was directed to proceed with materials and a plan for recruiting a Municipal Judge based upon the job description sent to the Committee. Attached to this report is a draft recruitment flyer and a draft of a supplemental questionnaire which would become part of the application materials as well as some draft questions for the interview process and some potential screening and selection criteria.

Advertising for the position would be done through the Gazette Times, the Benton County Bar Association chapter, the District Attorney's Office, and notification to all existing judges pro tempore. Additional outreach could be done through the Oregon State Bar Association, other newspapers, and special legal associations such as the Oregon Trial Lawyers Association or the LOC City Attorney's Association, if you so direct.

The time frame for this process would be approximately four weeks of open recruitment from when the advertisements are published or mailed, one week for staff to screen any applicants who do not meet the minimum qualifications specified in the job description (if the Committee would like staff to perform this initial step) and sending copies of all the qualified applicants' materials on to the Committee. The Committee should also determine which, if any, staff they wish to include in the screening process. Those who are responsible for the screening, both Committee and staff, should then have at least a week to review the materials and determine which applicants they would like to interview. At this point, staff would also recommend that the Committee provide some direction to staff regarding a draft agreement for the judge which would be sent out to candidates along with their invitation to interview. Candidates could then be asked in the interview process what if any language changes they would want in the draft agreement.

City of Corvallis

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Attachment 2

Municipal Judge
3/16/95
Page Two

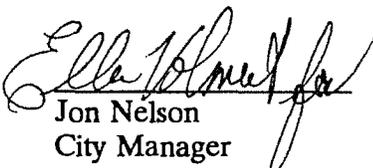
Interviews could be set for either a regular Committee meeting or for a special meeting, perhaps depending upon the number of applicants the Committee wishes to interview. A summary of the Committee's discussions and ratings would then be prepared and sent on to the full City Council. Again, the City Council should have at least a week to review the application materials and Committee information prior to setting a discussion for the selection. Therefore, the entire selection process could well take 8 or more weeks from the initial date of advertisement.

FINANCIAL ANALYSIS

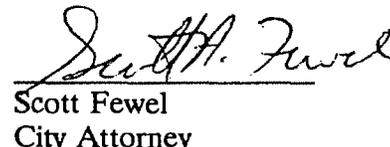
The estimated expense would largely depend upon whether the Committee wishes to advertise in more than just the Corvallis newspaper. If the Committee does not add other newspaper ads, the total cost should be less than \$75 for one newspaper ad, postage and reproduction of materials. Other advertisements would run from \$40 - \$400 depending upon the newspaper. Costs of an employee recruitment are generally charged back to the department doing the recruitment. The Finance Department has indicated that they have savings within the Municipal Court budget to fund these expenses. Therefore, no budget amendment is necessary.

RECOMMENDATION

That the Committee review the attached materials and the proposed process for the selection of a Municipal Judge and provide staff with additional direction in order to proceed with the process.


Jon Nelson
City Manager


Nancy Brewer
Finance Director


Scott Fewel
City Attorney

City of Corvallis

MUNICIPAL COURT JUDGE
Cities of Corvallis and Philomath, Oregon
Salary as determined by the City Councils

The Corvallis and Philomath City Councils are seeking uniquely qualified and community minded professionals to serve as Municipal Court Judge. These positions are part-time contractual positions appointed directly by the City Councils. The City of Corvallis expects approximately 9,000 cases per year. The City of Philomath expects approximately 1,000 cases per year.

JOB DUTIES

The Municipal Judge meets the needs of the Cities by performing the judicial duties set forth in the City Charters. Essential functions include:

- Conduct trials; set bail and fines; decide contested cases.
- Conduct arraignments.
- Set dockets.
- Handle correspondence.
- Set realistic time deadlines to comply with court orders.
- Supervise the work of the Corvallis Judicial Court Clerk.
- Set penalties.

QUALIFICATIONS

Applicants must have a formal education, including a law degree and experience in criminal law. Applicants must also have a thorough knowledge of current rules of evidence and case law and possess excellent communication skills. This position requires the ability to be completely impartial, to decide cases based on law and the facts, and to treat the public fairly. Applicants must be current members of the Oregon State Bar and have some supervisory experience.

PROCESS

The deadline for submitting resumes and completed supplemental questionnaires for the Corvallis and/or Philomath positions is May 5, 1995. If you indicate an interest in the Philomath position, copies of your resume and questionnaire responses will be forwarded to Philomath which will conduct its own selection process. If you indicate an interest in the Corvallis position, your materials will be reviewed by the Administrative Services Committee of the Corvallis City Council will also interview selected candidates. After interviews, the Committee will evaluate the candidates and make a recommendation for appointment to the full Corvallis City Council. The City of Albany, which has a vacancy in its half-time Municipal Judge position, is also interested in contacting applicants for the Corvallis/Philomath positions. Final selection for each position is the sole responsibility of each City Council.

For information and application materials, contact the Corvallis Personnel Division at 757-6902, or request materials in person at the Personnel Office, Corvallis City Hall, 501 SW Madison Ave., Corvallis.

*The City of Corvallis is Committed to Excellence
in Customer Service Through its Employees*
AN AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER
IN COMPLIANCE WITH INRA AND ADA

City of Corvallis

Outreach and Advertising for Municipal Judge positions

Advertisements in

Gazette Times

Democrat Herald

Benton Bulletin

Oregon Bar Association Newsletter, "For the Record"

Linn County Bar Association

Benton County Bar Association

Benton County District Attorney's Office

Linn County District Attorney's Office

Mailed to all current pro tempore judges

City of Corvallis

**JOINT RECRUITMENT
MUNICIPAL COURT JUDGE
CITIES OF CORVALLIS AND PHILOMATH**

The Cities of Corvallis and Philomath have vacancies in their Municipal Court Judge positions. In each City, the Municipal Court Judge is a Charter position, appointed by and working at the pleasure of the City Council. Salaries are also set by the City Councils. Combining the two communities' Municipal Court Judge work schedule results in approximately a half-time position. Each City is open to discussing a three-year contract for the Municipal Court Judge appointment.

The Cities believe there may be efficiencies in having one Municipal Court Judge to serve both communities, so a recruitment is being tailored to provide the opportunity to explore such an arrangement. The City of Albany, which has a vacancy in its half time Municipal Judge position, would be interested in contacting applicants for the Corvallis/Philomath positions. The City Councils may choose to employ different individuals.

The Municipal Court Judge description of duties from the City of Corvallis and the pertinent sections of the Corvallis and Philomath Charters are attached. Please indicate your interest in any or all of these Municipal Court Judge positions below. To apply for the Corvallis or Philomath positions, submit a resume and a completed supplemental questionnaire by May 5, 1995 to:

Personnel Division
City of Corvallis
P.O. Box 1083
Corvallis, OR 97339-1083
(503) 757-6902

Highlighting courtroom, judicial, and administrative experience in your resume will facilitate the Councils' screening and interviewing process.

The City of Albany will receive the names and addresses of anyone indicating an interest in that position so that their materials can be sent to you at a later date. The City of Philomath will receive the resumes and completed questionnaires of anyone indicating an interest in that position for their review and selection process. Applicants indicating an interest in the Corvallis position will be reviewed by the City Council's Administrative Services Committee which will select those applicants who will proceed to the interview stage. Following their interviews, the Committee will make a recommendation for selection to the full Corvallis City Council.

Please check off below the community or communities for which you wish to be considered.

Corvallis_____ Philomath_____ Albany_____

Questions concerning this process and the positions should be directed to Jon Nelson, Corvallis City Manager, at 757-6901; or Hal Million, Philomath City Manager, at 929-6148.

City of Corvallis

**MUNICIPAL JUDGE SELECTION PROCESS
Supplemental Questionnaire**

Please answer the following questions. Answers should be no longer than one single spaced typed page per question.

1. What is your philosophy on the role of Municipal Court and of the Municipal Judge?

2. Please describe in detail your previous trial or judicial experience. Include experience such as arbitration or mediation and specifically indicate experience relating to Municipal Court. Include any examples which would assist us in understanding your ability to manage and diffuse interpersonal conflict and/or to make difficult decisions.

3. Please describe in detail your previous supervisory experience and your supervisory style.

4. Please indicate how you would evaluate whether or not you were being successful as the City of Corvallis and/or City of Philomath Municipal Judge.

5. Please detail your experience, emphasizing criminal law, current rules of evidence, and case law.

6. Have you ever been subject to a disciplinary process by any Bar Association? If so, please explain.

City of Corvallis

SCREENING CRITERIA
(For getting from Applicant to Interview)

Indicate +, 0, or -

1. Does the applicant meet the minimum qualifications set forth in the job description?
2. Does the applicant have any former arbitration, mediation or judicial experience?/Does the applicant have a demonstrated ability to manage and defuse interpersonal conflict?
3. Does the applicant have any former supervisory experience?
4. Does the applicant have experience in Municipal Court?
5. Does the applicant have strong written communications skills?
6. Does the applicant demonstrate an understanding of criminal law and rules of evidence based upon balanced criminal court experience, including case prosecution?
7. Does the applicant have a philosophic approach to Municipal Court and the Municipal Judge position which would match City Council/community values and expectations?

City of Corvallis

ATTACHMENTS

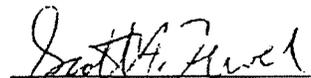
Judge
5/11/95
Page Three

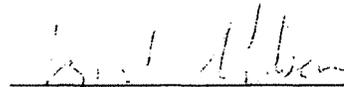
The Committee should review these evaluations in addition to the candidate's more philosophic responses to the questionnaire and determine which candidates they would like to invite back to interview. The interviews would be done by a panel consisting of the Committee, a representative from the Municipal Court staff and a representative of the volunteer bailiffs. Since the entire Committee is involved on the panel, the interview session needs to be scheduled as a public meeting. Once the Committee has selected candidates and a date and time for interviews, staff will contact the candidates.

RECOMMENDATION

That the City Council determine which candidates for Municipal Judge they wish to interview and also select a date and time for the interviews to take place.


Nancy Brewer
Finance Director


Scott Fewel
City Attorney


Jon Nelson
City Manager

APR 21 2010

CITY OF CORVALLIS, OREGON

MUNICIPAL JUDGE EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into this 21st day of April, 2010, by and between the CITY OF CORVALLIS, a municipal corporation of the State of Oregon, hereinafter called "City" and MARK DONAHUE, hereinafter called "Contractor."

RECITALS

WHEREAS, the City Council desires to employ the services of Contractor as Municipal Court Judge of the City of Corvallis, as provided by Section 24 of the Corvallis City Charter; and

WHEREAS, it is the desire of the City Council to provide certain compensation and establish certain working conditions of the Judge;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. TERM:

1.1 **Effective.** Contractor shall serve at the pleasure of the City Council. No rights, responsibilities, or compensation shall extend beyond the term of this agreement unless extended by addendum to this agreement. This agreement shall be effective from July 1, 2010, through June 30, 2013, unless terminated earlier according to Sections 1.2 through 1.3 of this agreement.

1.2 **Termination Without Cause.** This agreement may be terminated without cause upon 60 days' written notice from either party. If Contractor terminates this agreement, all cases under advisement shall be completed within 30 days of City's receipt of Contractor's intent to terminate this agreement. If the City terminates this agreement, City agrees to pay Contractor three months' severance pay.

1.3 **Termination For Cause.** This agreement may be terminated immediately in the event Contractor is indicted on any illegal act or no longer meets the minimum requirements described in the position description, including terminating membership in the Oregon Bar Association.

2. SCOPE OF SERVICE:

2.1 **Duties.** Contractor shall perform all functions and duties specified in Section 24 of the Corvallis City Charter and other legally permissible and proper duties and

ATTACHMENT
4

functions as the position shall require. The position description is attached hereto and hereby made a part of this agreement.

- 2.2 **Hours.** Contractor shall set the judicial calendar and the schedule of Court hours, including arraignments. The current estimate of the time commitment to meet the stated obligations is 50 hours per month.
- 2.3 **Pro Tempore.** City shall budget for Judge Pro Tempore services for 50 hours annually.
- 2.4 **Staff.** Contractor shall work in consultation with the City Finance Director to supervise the operations of the Court administration and staff.
- 2.5 **Annual Report.** Contractor shall report to the City Council each June regarding the status of the Court.
- 2.6 **Policies and Procedures.** Contractor shall develop and implement operating policies and procedures for the Corvallis Municipal Court.

3. **COMPENSATION:**

In consideration of Contractor's performance hereunder, City agrees to pay Contractor \$5,950 per month effective July 1, 2010. Effective July 1, 2011, compensation shall increase to \$6,250 per month. Effective July 1, 2012, compensation shall increase to \$6,550 per month. Payment shall be made on the last working day each month.

City shall also provide Contractor a membership in the Oregon Municipal Judges Association and pay reasonable costs associated with Contractor's attendance at one Association conference annually.

4. **STATUS:**

Contractor is engaged as an independent contractor and will be responsible for any State or Federal taxes applicable to payments pursuant to this agreement.

5. **BENEFITS:**

Contractor will not be eligible for any Federal Social Security, State Workers' Compensation Insurance, unemployment insurance, or Public Employees Retirement System (PERS) benefits from this agreement payment, except as a self-employed individual.

Contractor is not a member of Oregon PERS and is not employed for a total of 600 hours or more in any calendar year by a public employer participating in PERS.

6. APPLICABLE FEES:

Contractor agrees to comply with all applicable local, State, and Federal laws, rules, and regulations in the performance of this agreement.

7. EMPLOYMENT:

Contractor will not be under direct control of the City in performing this agreement.

8. TAXES:

The City of Corvallis will report all payments made to Contractor that it is required to report by the Federal Internal Revenue Service and the State of Oregon Department of Revenue.

9. WORKERS' COMPENSATION:

If Contractor is a subject employer, Contractor shall comply with ORS 656.017, which requires provision of workers' compensation coverage to all subject workers.

10. HOLD HARMLESS:

Contractor shall indemnify, protect, defend, and hold the City, its officers, agents, and employees harmless against any 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 his actions that are not within the "Scope of Service." City shall indemnify, protect, defend, and hold Contractor harmless against any said claims and said losses, liabilities, costs, or expenses growing out of or resulting directly or indirectly from Contractor's actions that are within the "Scope of Service."

11. ASSIGNABILITY:

This agreement is for the exclusive benefit of the parties hereto. It shall not be assigned, transferred, or pledged by either party without the prior written consent of all the remaining parties.

12. DISCRIMINATION:

The parties agree not to discriminate on the basis of any protected class under Federal, State, or local law including, but not limited to, 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.

13. 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 this same or any other provision of this agreement.

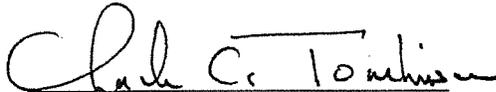
14. ATTORNEYS' FEES:

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 attorneys' 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.

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

CITY OF CORVALLIS

MARK DONAHUE


Charles C. Tomlinson, Mayor


Mark Donahue

ATTESTING AS TO THE MAYOR


Assistant to City Manager/City Recorder

Municipal Court Survey:

- Albany, Bend, Springfield, Tigard, Lake Oswego, McMinnville, Keizer, Oregon City, Medford

1. How many non-Parking cases (traffic/criminal/local code citations) did your court process in Calendar Year 2012? _____
2. How many Parking citations for the same period? _____
3. How many court staff do you have? _____ Supervisor(s)? _____
4. What Court software do you use? _____ For how long? _____ How satisfied are you with this software? _____
5. How often do you have trials? _____ Arraignments? _____

6. About how many refunds do you process in a year? _____
7. How many Judges does your Court have? _____
8. What is(are) the judge(s) paid? _____ (Weekly/Monthly/Annual)
9. Does the Judge receive benefits, and if so what benefits at what cost to the City? _____

10. How many hours does the Judge work each week or month? _____ week month
11. What are the hours your Court Office is open? (i.e., 8-5 M-F; 8-12 and 1-5 M-F)

12. Would you like us to share the results of this mini-survey? ____

Name, Phone number, e-mail address of the person responding? _____

ATTACHMENT 5

**Municipal Judge
Interview Questions**

1. Why are you applying for the Municipal Judge position?
2. What do you see as your strengths and weaknesses in regards to this position?
3. Describe a case or decision from Municipal Court with which you are familiar and which demonstrates Municipal Court at its best.
4. Describe a case or decision from Municipal Court which you felt was not handled as well as it should have been and indicate what you would have done differently.
5. This is a part time position. Please tell us what, if any, other professional activities you would be engaged in during your service as Municipal Judge and how you would avoid potential conflicts of interest between your position with the City and these activities.
6. Please tell us how you would ensure that all persons (citizens, police officers, etc.) are treated with appropriate respect and dignity.
7. What would you consider to be the most important community values or expectations in applying the spirit and intent of the law in Municipal Court?
8. How can you assure us of your ability to give objective and balanced consideration of the facts to arrive at a fair determination?
9. How can you assure us of your ability to impose and enforce legal standards separate from personal preference or bias?
10. A Municipal Judge must make difficult decisions and impose fines and other sanctions including jail sentences. Would you be willing to be accountable for these judicial decisions? Please give us an example from your recent experience, of a difficult decision you have had to make.
11. A draft agreement was sent to you prior to scheduling this interview. If you were selected by the City Council, what if any changes to that draft would you want to discuss with us prior to accepting the position?
12. Describe your experience dealing with people from different cultures and backgrounds, or who speak different languages.
13. Please describe your mediation skills and any creative conflict resolution methods you have used.

City of Corvallis

ATTACHMENT 6

SELECTION MATRIX
(To evaluate candidates who have been interviewed)

Rank from 1 to 5, with 5 being the highest possible score, each candidate on the following:

CRITERIA

Knowledge/experience of Criminal Law

Ability to impose and enforce the law without bias

Knowledge/experience of Municipal Court

Ability to be objective with the facts and arrive at a fair determination

Previous judicial experience

Previous supervisory experience

Ability to understand and consider community values and expectations when applying the spirit and intent of the law

Ability to treat all persons with appropriate respect and dignity

Oral communication skills

Written communications skills

Ability to make difficult decisions and to be accountable for those decisions

Ability to manage and defuse interpersonal conflict

Conflict resolution skills

Cultural Competence

Presentation before Corvallis City Council
Feb 4, 2013
Gordon Grant

I'm Gordon Grant and I live at _____ I am speaking on behalf of all of the neighbors affected by the water line break on January 18th. Briefly, a massive break of the City's water line in a location within 30' of a previous break in 2006 released a quarter of a million gallons of water into the historic North College Hill neighborhood near 35th and Tyler. 23 households were directly affected by sewage-contaminated water that inundated basements, requiring immediate decontamination, demolition, and reconstruction of water-damaged spaces, multiple dumpster-scale loss of personal property, and untold hours of labor, disruption, contact with contaminated material, and stress to our lives. An informal survey of some but not all affected households reveals that average costs to date for remediation, restoration, and loss of property exceeds \$10,000 per household.

We are here today to respectfully request that the City acknowledge its responsibility in this incident, and do the right thing in terms of recompensing all affected households for their expenses. As the letter we have sent the Mayor and Council indicates, we are asking that the City:

- 1) Fully compensate all affected property owners for our costs, including clean-up, restoration and repairs to property, and replacement or repair of damaged personal effects;
- 2) Arrange for the inspection of our homes to ensure that they are safe;
- 3) Prioritize replacement of the clearly faulty water pipe;
- 4) Ensure that procedures are in place for a prompt response to any future emergencies of this kind, including disseminating information on public health risks; a CDC circular delivered a week after the incident is unacceptable.

We cannot overstate the importance we place on the fact that this is the second time this same pipe has broken in virtually the same place in the past 7 years, causing an expensive flood. The first time this happened, the City can claim to be surprised; this time it cannot. The first time this happened, we responded and were treated as individual households; this time we are organized and working together with our elected representatives and neighborhood association. The first time the City minimally compensated households as a "good will gesture"; this time we are asking that the City accept its responsibility, do the right thing, and compensate its citizens for the full extent of their loss. The first time the City patched, but did not investigate or replace the defective pipe; this time the issue of aging infrastructure cannot be ignored and the City has to address its deferred maintenance on this (and probably other) pipes.

In closing, the history of multiple breaks over a short time in the same pipe at the same location means that this incident cannot be dismissed as an act of God, cold weather, or tree roots. Surely the City cannot expect a small group of citizens to repeatedly bear the costs of deferred maintenance of City infrastructure. Our bills are mounting, and we hope that you can tell us what your process for resolving this will be within the next week. We are counting on you to accept responsibility and do the right thing. Thank you for your attention.

Synopsis of results from informal survey (available on request):

- 19 of estimated 23 impacted owners responded to a survey. Total estimated costs for the 19 are \$180,000 or an average of \$12,000 per household.
- Actual costs may be higher as final expenses are tallied.
- 10 of 16 owners have no personal homeowners' insurance coverage for damages.
- A very rough estimate of uncovered costs for the 19 households is at least \$131,000.
- An average of 38 hours per household was expended in emergency clean-up, with many additional hours expended since then on other necessary follow-up.

MEMORANDUM

TO: Mayor and City Council
FROM: Homeowners Affected by the January 18 Flooding Incident
RE: Requested Actions By City
DATE: January 31, 2013

On January 18, our homes were flooded following a water main break in the vicinity of Tyler Avenue and 35th Street. The sudden and huge water flow overwhelmed the City's combined stormwater/sewer drains, causing sewage-contaminated water to back up into our basements. This was, unfortunately, a repeat circumstance for many of us who experienced flooding following a similar incident in the same location in 2006. After the 2006 incident, many of us installed backflow devices, as recommended by the City. Such devices have offered limited protection against the January 18 flooding and the recent damages appear to have greatly exceeded those experienced in 2006.

Since January 18, we have engaged in clean-up of our basements (in most cases with help from disaster restoration companies), discarded ruined belongings, and assessed repairs needing to be done, some costly like wall and/or flooring replacement. This evaluation process continues now.

We have discovered that, in most cases, our personal homeowner's insurance offers little to offset our anticipated expenses. Even if nominal insurance is available, a high deductible normally applies. Some have verified that their insurance rates would go up if they were to file a claim.

We have had questions and concerns about immediate and long-term public health risks associated with the flooding. We felt there was a lack of timely guidance from the City about how to protect ourselves from contamination; the information that was provided, while welcome, was received one week after the incident. We also learned that per Oregon law, property owners would be well-advised to disclose flood damage when trying to sell their homes, thus deterring potential buyers (see enclosed).

We have had questions about why the water pipe failed a second time in the same location. Surely, this cannot be simply considered an accident or attributed to the weather. We eagerly await the results of a technical investigation regarding this repeated failure. We also wonder why this 1951 pipe has not been prioritized for replacement per the City's Capital Improvement Program.

Some of us have expressed our concerns to the City individually, including at the last Council meeting. We appreciate statements of support from the Mayor, City Manager, and other City staff. Those statements need to be matched with action. We understand that it is standard practice for the City (and other cities like it) to delegate insurance-related decisions to its insurance company. **We contend that the ultimate responsibility for such decisions rests with the City and that the insurer should follow the direction set by the City.**

We respectfully request that the City do all of the following to address the impacts from the flooding incident:

1. Fully compensate all affected property owners for: a) our clean-up costs, including reimbursement for our personal labor and materials used; b) costs to replace or repair damaged personal effects; and c) restoration and repairs needed to address property damage.
2. Arrange for the inspection of all affected properties by an independent¹ certified industrial hygienist who will test homes for the presence of microorganisms or biological contaminants resulting from this incident. If such contaminants are discovered, remediation shall take place at the City's expense until the properties are certified as contaminant-free.
3. Prioritize the replacement of the affected water pipe through the City's Capital Improvement Program process or other means.
4. Ensure that procedures are in place for a prompt and effective response to any future emergencies of this kind, including timely and regular communications with affected citizens. We would be happy to provide feedback on this effort based on our experiences.

These requests are supported by the Harding Neighborhood Association.

Thank you for your consideration of these requests. It would help us to understand what to expect of the Council's decision making process going forward. **Within one week of the February 4th Council meeting, we ask that you confirm the timing and process by which the Council will make a decision on the above requests.**

We know the City wants to do the right thing and we are looking forward to working together to achieve a satisfactory resolution to the above issues. A prompt response and decision on this matter is in the best interest of all parties.

¹ To be truly independent, the inspector shall not be an employee of, or consultant to, the City's insurer.

Sincerely,
Homeowners Affected by the January 18 Flooding Incident

Bob & Mary Becker

Peter Lachenbruch

Gerhard Behrens & Mary Mallon-Behrens

Ellie Rose & John Larison

Floyd & Eva Bodyfelt

Helen & Phil McFadden

Dave Conklin & Carol Sweeney

Sue Merrill

John & Traci Cronkrite

Glee Monroe

Sarah & David Ehlers

Gilda Naziri

Jim & Kristin Ellenson

Henry & Glenna Pittock

Bret & Diana Godfrev

Scott & Kristy Rolen

Barbara & Gordon Grant

Josh Smith & Kathy Seeburger

Graeme Harwood

Christine Van Belle & Jim Anderson

Note: Councilor Bruce Sorte was impacted by the flooding; while he has been supportive, he has chosen not to sign this letter. Attempts are being made to contact at least two additional impacted property owners.

Enclosure: "Seller's Common Law Disclosure Duties," Oregon Association of Realtors Web Site

cc: Jim Patterson, City Manager
Randy Chakerian, President, Harding Neighborhood Association

PROPERTY CONDITION, INVESTIGATION & DISCLOSURE
Seller's Common Law Disclosure Duties

(Oregon Association of Realtors, www.oregonrealtors.org/docs)

Under Oregon law a seller must disclose to the buyer any material defects known to the seller that would not be readily apparent to a buyer. Oregon civil law also imposes on all parties to a contract a duty of good faith and fair dealing. This contractual duty prohibits deceit, fraud or design to mislead in the formation and performance of contracts. Taken together, these legal obligations require certain disclosures to purchasers when selling real property in Oregon.

A seller in Oregon cannot remain silent if they know of some hidden defect that affects the value or desirability of the property. Such defects are considered "material" and must be disclosed. The "defect" may be in the condition of the property or its title or use or, in some cases, even surrounding conditions or future use. The key is that the defect must be known to the seller, affect the value or desirability of the property and not be readily apparent to a buyer. Failure to disclose such defects can result in lawsuits for damages or to rescind the sale.

Given the consequences, any doubt about disclosure of potential defects should be resolved in favor of disclosure. For instance, if the roof leaked last winter and was repaired it would be wise to disclose the leak and repair in a sale taking place the following summer. That way, if the repair proves inadequate during the next rainy season, there will be no question that the sellers misled the buyer by "hiding" the leak and repairs. At the same time, a problem fixed years ago that has caused no further problems would not need to be disclosed. Where the line is drawn in a specific instance is a matter sellers should discuss with their real estate agent.

Real estate licensees are not property inspectors or legal experts. They can, however, assist sellers in understanding and meeting their disclosure duties. All real estate licensees in Oregon have an obligation of honesty and fair dealing to all parties to a real estate transaction. Licensees, therefore, cannot be party to any attempt to deceive or mislead a buyer. Under Oregon law, withholding material information from an agent with the intent that the agent innocently misrepresents the property to another is considered a form of fraud.

4 February 2013

To: Mayor Manning
Members of the City Council
City Manager Patterson
City Attorney
City Recorder
Public Works

I am writing on behalf of the Harding Neighborhood Association (HNA) regarding the recent water-main break near 35th & Tyler. We would like to make 3 points regarding this event.

1) Neighbors' expenses

As you know, this is the second break to have occurred in this location in just over 6 years, this one resulting in flooded basements in some 23 residences in our Neighborhood's south-west corner. We note that the City's insurance company has taken the unusual step of hiring an independent consultant to evaluate the pipe in an attempt to determine the cause of this most-recent failure.

The extent of this flooding has been much worse than the previous event, and our neighbors have incurred substantial damage to their personal effects and property in addition to clean-up costs. Given the highly unusual circumstances of this repeat event, we would expect the City to ensure that our neighbors are compensated for all of these expenses by parties deemed to bear responsibility, whether they be the City's insurer, the pipe manufacturer, or others -- perhaps including the City itself.

2) Aging water pipes

We've done a little research on water pipes in the last few days. While we're sure it's not news to the City's Public Works Department, we discovered, in an April 17, 2009 New York times article entitled "Aging of Water Mains is Becoming Hard to Ignore," that "pipes put in after World War II have an average life of only around 75 years."

Most of the Harding Neighborhood properties affected by the recent flooding are also in the North College Historic District and were built right around 1940 -- about 75 years ago. Clearly the housing stock in Corvallis' other two Historic Districts is at least as old.

We think that these repeated water-main breaks may be taken as an early warning of over-aged pipes, and we worry that the City could be facing significant water-main replacement costs in the coming decade, especially in Harding and other older neighborhoods. We therefore request that the Council's Urban Services Committee evaluate the issue of aging water-pipes with input from the Public Works Department, and give serious consideration to incorporating a significant water-pipe replacement program in the City's Capital Improvement Program budget.

Shorter-term, since we share the same pipe system with our 35th and Tyler neighbors, we would also like to request that the Urban Services Committee seek assurance from the City's Public Works Department regarding their confidence in the integrity of the water pipes throughout Harding Neighborhood. We would like to be apprised of the Department's response to this request.

3) Liability Policy

Finally, to return again to the question of liability and responsibility with regard to this incident: In its Winter 2012 publication entitled "Are You Prepared for a Flood?" the City clearly stated its position with regard to responsibility for remediation costs associated with flooding in "an area of the City subject to periodic basement flooding," i.e., a floodplain. The publication posed the question, "Who is responsible?," and gave its answer: "**You!** The City's insurance company generally does not approve payment on claims for damages caused by sewer back-ups due to excessive wet weather conditions."

But this policy clearly does not apply to this recent event: this flooding occurred during the extended stretch of cold, foggy dry weather we had in mid-January, not during "excessive wet weather;" the affected residences are not in a floodplain; and the flooding was clearly the result of a second pipe failure, not excessive rain.

Given the potential of more pipe failures as our infrastructure ages past its effective life, we would therefore also request that the City review and clarify its policy regarding liability for flooding caused by pipe failures in non-flood-plain areas, not only for Harding Neighborhood but for all neighborhoods with similarly aging pipes. This will help homeowners understand their responsibilities more clearly, and will also support the City's livability and property values.

We thank you for your attention, and look forward to hearing your responses to our requests, as well as those of our neighbors.


Randy Chakerian, President
Harding Neighborhood Association

(home)

Hello again Councilors. I spoke to you a couple weeks ago about the right of voters in Corvallis to decide how we, collectively, protect our environment. To insure this right is upheld, several of us have formed an alliance we call Voters for Effective Environmental Policy. Our goal is to support environmental policies which are backed by scientific analysis rather than merely opinion. It is clear that we can improve our society's impact on the world we live in but we strive to do so only after carefully considering consequences of our present choices as well as those in our past.

The first falsehood that special interest groups bring up when trying to gain support for their cause is unsubstantiated claims that we are harming innocent wildlife. Unless you can present data which statistically substantiates the claim as it pertains to Corvallis, it is simply an invalid justification for making public policy. The same can be said of our alleged litter problem. This leads us to conclude that the Corvallis bag ban was based on the opinions of a minority. It very well may be that the majority of Corvallis residents would vote for a ban. Fine. As long as we are going to pass public policy based on opinions, I ask you, can't we at least base it on the opinion of the majority? The voters deserve a say in this complicated issue. Effective environmental policies look at the big picture; global energy consumption, carbon footprint, ecological impact, the nation's job market, impact to local markets, and yes even the wildlife. I'm sure you can think of other concerns of your own.

I can't speak for the council but everyone I know used some of their plastic grocery bags for household garbage and returned the surplus of their fully recyclable bags to a recycle drop. People will now be buying trash can liners instead, and as for me, I will contribute exactly the same amount of plastic to the landfill. Better recycling availability solves environmental concerns better than present ban because it would let us recycle other types of plastic films as a side-effect. Can we all do better? Yes and that's the point, so let's do it by encouraging one another instead of making assumptions.

I hold in my hand approximately 500 voter signatures which intend to place a ban repeal option on the next possible ballot. These people feel as I do; that even if a ban is the right thing to do it should still be a community decision and deserves feedback to insure it's the right implementation. These signatures were collected only in our spare time over about two months. I have no doubt that voters are eager to chime-in on this ban which is far more restrictive and poorly crafted vs. those enacted elsewhere in the country. This council has the option of adopting the repeal ordinance without a full signature tally. I urge you to consider the option. If necessary, signature collection will continue until the present ban is either repealed or confirmed to be the will of the majority.

Thank you for your time.

Wiatt Kettle
Voters for Effective Environmental Policy

I note at the outset that I am not associated with any group. I speak only for myself as a private citizen.

Corvallis Municipal Code Chapter 8.14 ("Single-Use Plastic Bags") states the Council's legislative purpose is in part to "encourage the distribution and use of reusable options" by the public for carrying purchases out of city grocery stores. City Staff has stated that in their role enforcing this chapter does not include any charge to bring to the Council's attention scientific and factual information about the potential health risks that reused bags and reuse behavior introduces into our city's food supply system provided to them unless and until Council asks them for such information.

Chapter 8.14 links at least four separate objectives: 1) elimination of thin film plastic bags, 2) reduced consumption of "disposable" bags of any type, 3) protecting store owners from financial costs of eliminating "single-use" plastic bags, and 4) widespread reuse of "reusable" bags. This linkage is not a consequence of some deep, inescapable connection between these objectives. The particular formulation of Chapter 8.14 is purely a matter of choice to most strongly induce the desired potentially risky behavior. Protecting public, population, worker, and individual health is not included even as a secondary concern.

A number of different lines of evidence support why the widespread practice by the public of carrying reused "reusable" bags into and around our grocery stores is a new, qualitatively and quantitatively distinct mechanism for collecting harmful bacterial and viral pathogens, along with environmental contaminants, from the general environment in high-volume and conveying them into our grocery stores. Figure 1 presents a graphical representation of this. The Council does not provide citizens appearing before it with sufficient time to properly rebut the handful of simplistic arguments commonly offered to rationalize away the potential health risks. However, even leaving those arguments on the table, the evidence supports reasonable concern that widespread reuse of reusable bags in our grocery stores introduces incremental new potential risks to our health. That alone argues why encouraging this unhygienic behavior into our food supply system by ordinance is problematic.

The risks of pathogenic bacterial contamination (*e.g.* Salmonella, Coliform, and *E. Coli* O157:H7), especially to employees and customers with less vigorous immune systems, is the most commonly heard concern about reused bags and reuse behavior. Williams *et.al.* [1][19] found that large quantities of bacteria were found on almost all reusable bags, and pathogenic bacteria on over half, that they sampled in the San Francisco Bay area, greater Los Angeles, and Tucson. Recently, Klick and Wright [2] released what may be the first quantitative study of the potential health affects of reusable options and reuse behavior. Their analysis concludes there was a significant increase in ER admissions and deaths in San Francisco County due to the types of pathogenic bacteria found on reusable bags in the year after a law inducing reuse went into effect compared to neighboring counties that didn't have analogous laws. Another question that has not been addressed yet is whether bacteria distribution through reuse behavior in our food system could contribute to the growing problem of antibiotic resistant pathogenic bacteria.

The risks of viral contamination, including calicivirus (norovirus) and influenza, are not heard as often because they are just starting to be recognized. Reused bags and reuse behavior potentially are factors in multiple modes of environmental transmission of viral disease. One mode begins with aerosolized viruses in the environment landing on the bag, continues with the bag owner touching the bag and numerous items in the store, and ends with the contaminated bag being handed to a clerk. Lopman *et.al.* [3] of the CDC noted in a 2012 review article about norovirus that "the relative importance of environmental transmission of virus is yet to be fully quantified but is likely to be substantial and is an important feature that complicates control." They also observed that "given the high infectivity and environmental stability of norovirus, transmission during outbreaks may involve multiple routes, and contaminated fomites may also act as a reservoir and perpetuate outbreaks."

Repp and Keene [4] (Keene is with the OHA), established in 2012 that a reusable grocery bag was a fomite in a 2010 norovirus outbreak, observing "this also illustrates one of the less obvious hazards of reusable grocery bags." Hall [5], one of Lopman's co-authors, commenting in separate paper on Repp and Keene's paper, characterized norovirus as "the perfect human pathogen." Moreover, he concluded:

“Although a vaccine may one day serve as another critical tool, thorough epidemiologic investigations and sound infection control practices will undoubtedly continue to be necessary in curtailing the spread of these well-adapted pathogens.” (The risks of environmental transmission of coronaviruses, *e.g.* SARS, are even less understood at this time, but current knowledge of the survival and transmission of coronaviruses does not rule out transmission through reused bags and reuse behavior. [6][7])

The most important recommendation from health authorities for reducing exposure risk to influenza viruses is that people wash their hands frequently and avoid shaking hands. These bags are in environments outside the stores, including closed vehicles as they are being transported to our grocery stores, facts that demonstrate the bags entering a store in any time period represent a very large exposure surface for aerosolized influenza virus. They are then circulated through the store and ultimately, in most stores, handed to a clerk in what essentially is a “mediated handshake”.

Customers are also commonly observed in stores to practice unhygienic practices for handling reused bags they bring in as they circulate through the stores, including in areas such as the fresh produce and deli sections with food items are consumed without subsequent cooking and cannot be sanitized through simple rinsing. People carry them into restrooms and deal with them in various ways to free their hands. They rest them on store surfaces as they examine products. They improperly place them on the lower shelf of grocery carts and carry them by the handles so that some or all the bag is exposed to pathogens and contaminants stirred up from the floor by the ground effects of air stirred up by people walking. Patrons who use these bags instead of carts or baskets to collect their items will also remove items they have placed in their bag and replace them on the shelves (including fresh produce) when they decide they don't want the item.

Contrary to rationalizations that admonishing those who reuse bags to wash them is appropriate and effective public policy for dealing with the health hazards of their reuse behavior, Williams *et.al.* [1][19] found in 2011 that more than 95% of users self-reported they never washed their bags and only 25% bagged meat, poultry and other products in plastic bags supplied by stores to protect their reusable bags from contamination (perhaps predictably if they oppose plastic bags). Leaving those behaviors aside, the inexpensive reusable spunbond polypropylene, and now polyethylene, plastic bags sold for a few dollars or less in stores show, these bags are not designed to be laundered in hot water and dried in a hot dryer as the CDC [8], the NHS [9], and the Association for Professionals in Infection Control [10] currently advise is required to sanitize fabric and fabric-like materials. As Mendelson [11] notes “polypropylene does not launder clean, as it can taken neither hot water nor vigorous agitation. ... Because it is prone to oil-staining and holding body odors, getting it really clean and fresh is difficult.” “Body odors” are the product of bacteria trapped on the material by oily substances, including human body oil, because olefin materials are olephilic. Stamm [12], who studies bacterial contamination in stores and other environments, has opined that public education campaigns to educate shoppers are unlikely to have a meaningful impact on their behavior.

Contrary to yet another rationalization that clerks and customers should be supplied with alcohol-based or other hand sanitizers to protect themselves. Purell, one of the leading suppliers of hand sanitizer products, has been unsuccessful in scientifically establishing these sanitizers are viricidal, has not attempted to meet FDC requirements for marketing their hand sanitizers as such, and does not represent their products as being protective beyond any elution effect [13]. In their norovirus review paper, Lopman *et.al.* [3] state: “The use of alcohol-based hand sanitizers remains controversial, due to both inconclusive *in vitro*. ... For these reasons, washing with soap and running water for at least 20s remains the preferred means to decontaminate hands.” Obviously this is not appropriate or effective public policy for dealing with the risks grocery workers and patrons face in grocery stores as thousands of bags circulate on a continuing basis with all the concomitant exposure effects.

Oregon ORS 616 allocates regulatory control over food establishments in Oregon. Under ORS 616 no local or state agency has jurisdiction for tracking, investigating, and managing environmental disease transmission in grocery stores. The Benton County Health department [14] confirms that “Oregon health

departments have no legal jurisdiction over grocery stores.” Moreover, “as with grocery stores - we are often limited to making recommendations and lack legal authority to mandate or enforce best practices. In those cases we can and do try to educate and convince, but sometimes are forced like everyone else to stand by and watch potential hazards continue.” Similarly, the Oregon Department of Agriculture opines [15] “ that our agency does not have the authority to regulate the use of reusable grocery bags, since grocery bags are not part of a food establishment and are neither equipment nor utensils.” Both appear to be presenting an accurate and reasonable interpretation of the authorities granted them under ORS 616 and other statutes. This is a situation where there is systemic ignorance about health hazards that may exist in grocery stores right now and a systemic inability to tracking health hazards that may emerge as a result of reuse behavior.

The points made here have been discussed with some of the professionals whose work is cited. Gerba [16] commented he agreed with these comments and concerns that reusable bags and reuse behavior represents a quantitatively and qualitatively new risk for environmental transmission of pathogens. Stamm [12] agreed with these concerns, citing fact we have a growing population of people who are immuno-compromised due to disease, medical treatment, or just age. Keene [17] indicated that he was not convinced yet that reused bags and reuse behavior represent a “significant” new risk, but he also was not willing to take the position that they don’t. These reusable bags have been conclusively shown to be fomites for enteric and other pathogens. He also indicated that he argues the OHA should note a potential objection to the proposed state ban SB 113 for this reason. Finally, the ODA has stated [15] that although the ODA has no authority over reusable bags and reuse behavior, due to the potential this poses for introducing pathogens into food establishments, single-use bags are preferred by the ODA to avoid contamination of the food, food surfaces, and personnel over which it does have jurisdiction.

Perhaps the most troubling aspect of the Council’s decision to formulate Chapter 8.14 with the specific intent of “encouraging the adoption of reusable options” is the apparent and rather explicit disregard this demonstrates for the health and wellbeing of employees of our grocery stores. This stands in odd contrast to previous Council’s stated concern for the health and wellbeing of employees in passing the indoor smoking bans. In response to a public record request for documentation quantitating the public resources the Council devoted to the entire deliberation of the ordinance that became Chapter 8.14 and just the health aspects, the City responded that they have no such quantitative information. At the same time, in response to a public records request for records representing the final product of deliberations dealing with health issues, the City produced only a scant number compared to the overall volume of records and virtually none of the issues here were even mentioned.

The public records suggests that the Northwest Grocers Association did not use its substantial resources and political power to oppose the Council’s intent to enact Chapter 8.14. In response to this observation, an NWGA representative [18] pointed out that they have generally worked to oppose recyclable container collection in the stores because of the risks they believe that behavior poses to employee and public health. The result is that recyclable containers are “stopped at the front door.” Based on the records produced by the City, the Council and the City has not established anything substantive in the record that contradicts an assertion that reused bags and reuse behavior should be “stopped at the front door” for the same reason as recyclable containers and recycling behavior when it comes to the potential risks to public, population, employee, and individual health. Most stores even provide hand-washing facilities in their recycling areas so that patrons may sanitizer their hands before entering the food handling areas of the store after relieving themselves of their recyclables to reduce the risk of the environmental transmission of infection disease and other environmental contaminants.

Finally at this time, Oregon is in the midst of radical “transformation” of its health care system. The foundation principle of that transformation is that the community should take responsibility for protecting and improving the health of everyone in the community. Again, from the City’s response to a public records request, the Council and the City has not established anything substantive in the record demonstrating that principle guided formulation of Chapter 8.14.

What the record does show is a common deliberative approach that derogates health concerns. Unless those with suitable knowledge will attest reused options and reused behavior is "Not Safe", advocates and decision-makers take the position they have no obligation to give due consideration to the health risks. But those with sufficient expertise are prudent. They only respond to that question based on what is well within the bounds of current understanding of the risks, even as they understand the systemic limitations that make it difficult to even expand knowledge of the risks. Because this is a matter of protecting public, population, employee, and individual health, the question that should guide decision-makers is whether reused options and reuse behavior encouraged by Chapter 8.14 is "Safe". As documented here, professionals with expertise and knowledge of the evidence would definitely not say that it is "Safe". Given the facts, the fundamental problem with Chapter 8.14 workers in these stores are being handed hundreds of bags/day and they have no recourse except to quit their jobs if they feel this is a potential risk to their health. Similarly, members of public who come into contact with those reusing bags and the closed environment in which many thousands of bags/day are circulated, but who would prefer to not have such exposure, have no recourse except to absent themselves from grocery stores. The City has offered neither what could be fairly characterized as a reasonable choice.

Rick Hangartner, PhD, Corvallis, OR 97330.

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- [13] Williams, S., Gojo Industries, private communication.
- [14] Fautin, C., Benton County Health Department, private communication.
- [15] Bybee, V., Oregon Department of Agriculture, private communication.
- [16] Gerba, C. P., University of Arizona, private communication.
- [17] Keene, W. E., Oregon Health Authority, private communication.
- [18] Gillian, J., Northwest Grocers Association, private communication.
- [19] D. L. Williams, *Assessment of the Survival of Microbial Pathogens in the Environment*. PhD Dissertation, University of Arizona, Tucson, AZ, 2012.

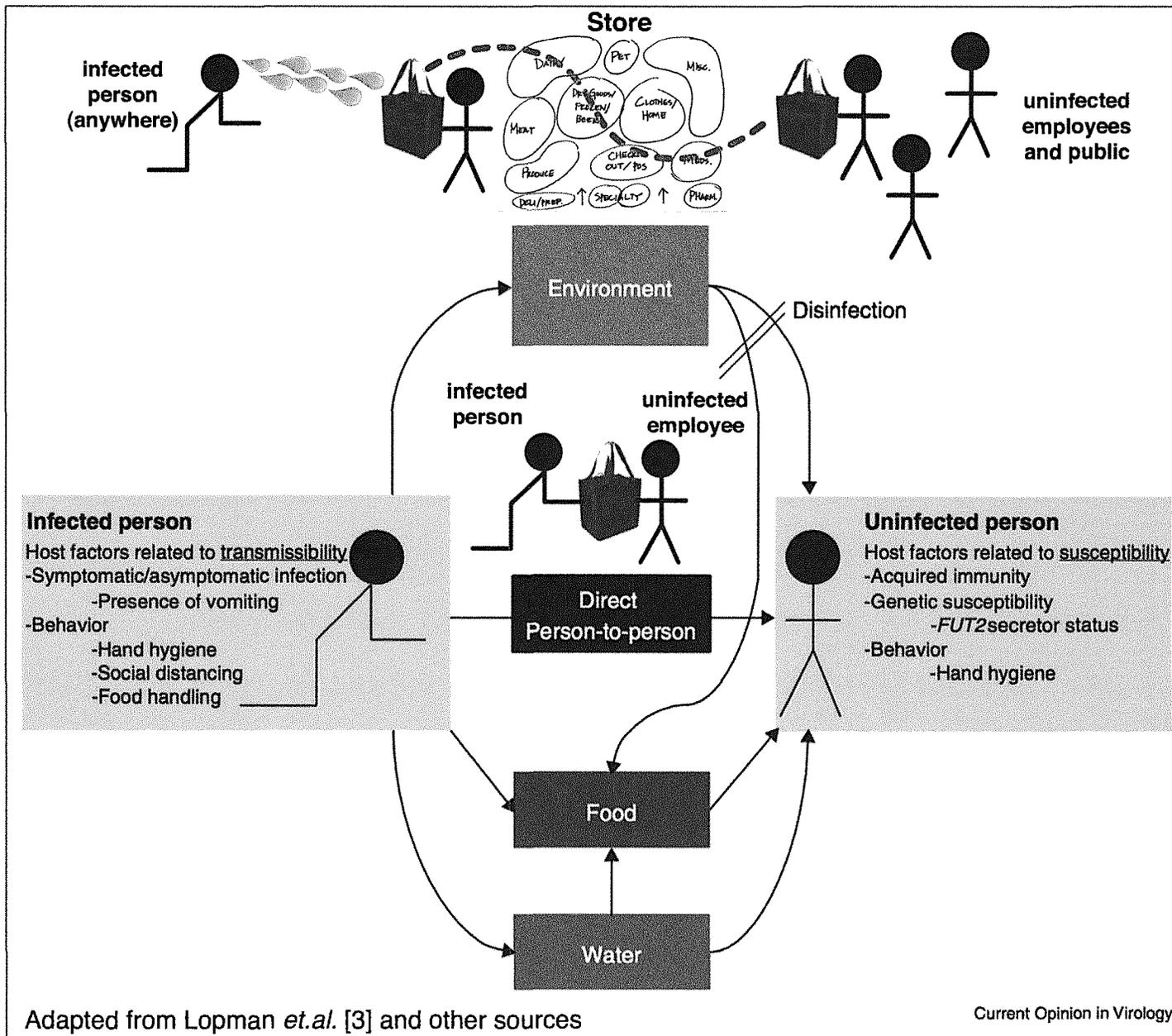


Figure 1: Enviromental Transmission of viral infections due to Reused bags and Reuse behaviors

JANUARY 2013 - Donna Bella Lingerie

I am back before City Council today to address the Bag Ban Ordinance as it relates to paper bag usage and the nickel fee.

I took the time to read through the council minutes that lead to the adoption of this ban. Several things jumped out – 1.) This was largely aimed at big box and grocery markets using single use plastic bags. 2.) It was the NWGA that pushed for the 5 cent fee to offset their costs, and change behaviors. 3.) the NWGA also pushed for a fair and balanced position requiring all retailers to comply. They cited retailers such as Home Depot, Kohls, Kmart – big box chain stores which coupled with grocery were the biggest outlets of single use bags. Grouping small independent, businesses - those of us with less than 25 employees - with this collection of retailers is far from balanced.

The minutes also showed that you were presented with information showing the support of over 50 downtown businesses. I am here to declare that core downtown businesses were grossly misrepresented. The petition that was circulated expressly defined the ban as: against single use bags effecting business greater than 50 employees with no reference to paper bag usage. That is not the ban that delivered. We were not informed of the potential consequences to our use of paper bags and effectively negated our voice on this issue.

Downtown businesses dominantly use paper for its recyclability and reusability - plastic is not our bag of choice. I canvased several of the core downtown business affected by this ban. I am here to tell council there isn't a one that isn't upset by this ban. They are angry that providing paper bags that fit the criteria will increase their costs, their workload all while offending their customers.

We are proud of our downtown and work hard to create an atmosphere that draws people from all over to shop Corvallis. They come for the shopping experience they don't get in their own communities. This nickel fee will be a negative impact and we DO expect it will drive customers away from Corvallis. We know for sure it will drive up our costs! While the plastic bag alternative eliminates the fee – it equally opposes the intent.

This ordinance for small businesses is counter-productive . It is called a plastic bag ban and it effectively takes paper options off the table and replaces it with plastic. There is no logic to this. And I am personally insulted that the response from the city is that "we will only enforce this ban if there is a complaint." I don't manage my life that way and certainly not my business. You pass an ordinance I will comply! So, Shame on you for passing an ordinance that even YOU are not willing to stand behind.

On behalf of your downtown businesses I am asking that you take immediate action to exempt businesses with less than 25 employees from this ordinance. We cannot wait until July, we have to make purchase decisions now – and plastic will be the option of choice. I have a signature list from other downtown businesses in support of this request.

JANUARY 2013

I AM A DOWNTOWN BUSINESS THAT DOES NOT SUPPORT THE PLASTIC BAG ORDINANCE AS IT PERTAINS TO THE DEFINATION OF USABLE OF PAPER BAGS OR THE REQUIREMENT TO CHARGE A FEE FOR USE OF PAPER. AS A RESULT OF THIS WE ARE LOOKING AT PLASTIC BAGS AS AN ALTERNATIVE TO OUR CURRENT USE OF PAPER BAGS.

WE ARE ALREADY FACED WITH MAKING PURCHASE DECISIONS. WE CANNOT WAIT FOR A JULY DECISION. WE RECOMMEND THAT CITY COUNCIL CONSIDER AN IMMEDIATE CHANGE TO THE ORDINANCE AS IT PERTAINS TO BUSINESSES WITH LESS THAN 15 EMPLOYEES.

| BUSINESS NAME | NAME |
|------------------------------|-------------------------|
| Donna Bella Lingerie | Susan McMahon |
| Mod Pod LLC | Jessica Klein |
| Oregon Coffee & Tea | Casey Collett |
| THE SHOE HUTCH | David |
| ZOOEYS | Sharon Clark |
| The Inicwell Homestore | Sam Camp |
| Second Glance | Emily Putnam |
| Second Glance Annex | K. R. Lee |
| Friendship Crossing | Alma Studios |
| Irene's | Rebecca L. Smith |
| Mona Lisa's Custom Trimmings | Dulce P. Lopez |
| re.volve | John J. |
| The Glass Slipper | Nicole |
| Sibling Revelry, Inc | Catherine Hodel |
| The Clothes Tree | Mardi Bisland |
| | |

JANUARY 2013

I AM A DOWNTOWN BUSINESS THAT DOES NOT SUPPORT THE PLASTIC BAG ORDINANCE AS IT PERTAINS TO THE DEFINITION OF USABLE OF PAPER BAGS OR THE REQUIREMENT TO CHARGE A FEE FOR USE OF PAPER. AS A RESULT OF THIS WE ARE LOOKING AT PLASTIC BAGS AS AN ALTERNATIVE TO OUR CURRENT USE OF PAPER BAGS.

WE ARE ALREADY FACED WITH MAKING PURCHASE DECISIONS. WE CANNOT WAIT FOR A JULY DECISION. WE RECOMMEND THAT CITY COUNCIL CONSIDER AN IMMEDIATE CHANGE TO THE ORDINANCE AS IT PERTAINS TO BUSINESSES WITH LESS THAN 25 EMPLOYEES.

| BUSINESS NAME | NAME |
|------------------------------------|------------------|
| FINGERBOARD EXTENSION | LEIGH WILLIAMSON |
| Grass Roots Bookstore | Lach W. Scott |
| Mehlhaf's Clothiers | David Mehlhaf |
| Over Many Hands Trading | Therese McLaren |
| Modern Avenue Boutique | Debra Hipson |
| modern Avenue Boutique | Kristen Simpson |
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As a licensed Professional Counselor who worked with students with behavior issues I soon realized that I could listen to all sides, but I must verify what was said. Due to this background I soon found myself verifying what was being said about the bag ban ordinance. It was sad to realize the amount of half truths, exaggerations, misrepresentations and actual false statements that have been made.

Example 1: Keep Plastic Out of the Pacific, Environment Oregon, Surfrider Foundation. See foot notes. Submitted in support of the Ban.

Example 2: Action Alert email form letters sent to City Councilors generated by Mary's Peak Sierra Club.

Example 3: Email form letter initiated by Environment Oregon.

Stopped counting at 150 letters.

Example 4: The flyer and form letters contain similar inaccurate information that can be verified by reading the report by JGB Derraik The Pollution of the Marine Environment by plastic debris. This is a major reference that pro bag ban advocates list to support their arguments. When read carefully it becomes apparent how the information is misrepresented. Page 845 Bottom left Column mentions the only reference to Polythene bags.

The Sierra Club opposed discussion of recycling and attempted to present a picture that it wouldn't be a solution. They attempted to block testimony from non-Corvallis residents when each environmental group was represented by non residents.

Bag Lady and Northwest Grocery Association presented as pro-environment, but as the NWGA rep said "No Fee, No support" Chico Bags are the most expensive reusable bags for sale with tags that read "Designed in California". You must go to their website to learn they are made in China.

Ordinance does not follow the City Sustainability policy of 1.08.042 Life cycle analysis of full life products and 1.08.044 Greenhouse Gas

The ordinance gives the appearance of being deceptive because it does not inform the shoppers of Corvallis that there is no top limit to the fee and the council voted to take the requirement of the fee off the sales receipt. Rite Aid does not list it and Kmart charges 10 cents a bag.

I've been told that it is not illegal to lie to the City Council, but I start to wonder if it is illegal to lie once money becomes involved. Is it a scam to use misleading information to get the city council to pass an ordinance that will put profit making money in private businesses?

Is it against fair trade to control your competitors by forcing them to charge for bags when the NWGA acknowledges that it is a competitive advantage to not charge? They added a clause that would control their competitors.

I request that the ordinance be revoked and or it be placed on the ballot for voter approval.



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I want to keep plastic out of the Pacific.

- **To:** <mayorandcitycouncil@xxxxxxxxxxxxxxxxxxxx>
- **Subject:** I want to keep plastic out of the Pacific.
- **From:** Rosie Leung <leungm@xxxxxxxxxxxxxxxx>
- **Date:** Thu, 14 Jun 2012 15:11:38 -0500
- **Organization:** Public Interest Network
- **Reply-to:** Rosie Leung <leungm@xxxxxxxxxxxxxxxx>
- **Resent-date:** Thu, 14 Jun 2012 13:12:11 -0700 (PDT)
- **Resent-from:** <mayorandcitycouncil@xxxxxxxxxxxxxxxxxxxx>
- **Resent-message-id:** <20120614201211.39A321C93B8@xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx>

Jun 14, 2012

Corvallis City Council Corvallis City Council

Dear Corvallis City Council City Council,

I support a Corvallis plastic bag ban.

For decades, billions of pounds of plastic and other trash have been carried by wind and waves into the Pacific. All this plastic has formed the Pacific Garbage Patch, a toxic soup of trash swirling off our coast. It's becoming an environmental disaster for ocean wildlife. Tens of thousands of sea turtles, whales, birds and seals die every year from contact with plastic pollution.

That's why I strongly support Environment Oregon's plan to cut the flow of pollution into the ocean by banning disposable plastic bags.

It's critical that we reduce the number of single-use plastic bags polluting our environment, and Corvallis can lead the way.

Last year Portland became the first city in Oregon to pass a bag ban and now communities around the state are looking to follow suit. Corvallis should be next.

We should ban plastic bags and do everything we can to encourage the use of reusable bags.

Please pass a ban on single-use checkout plastic bags.

Sincerely,

Rosie Leung

Corvallis, OR 97330-1504

- [Prev by Date: I want to keep plastic out of the Pacific.](#)
- [Next by Date: I want to keep plastic out of the Pacific.](#)
- [Previous by thread: I want to keep plastic out of the Pacific.](#)
- [Next by thread: I want to keep plastic out of the Pacific.](#)
- **Index(es):**
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I want to keep plastic out of the Pacific.

- To: <mayorandcitycouncil@xxxxxxxxxxxxxxxxxxxx>
- Subject: I want to keep plastic out of the Pacific.
- From: Anne McCormick <mccorma47@xxxxxxxxxxxx>
- Date: Thu, 14 Jun 2012 15:21:17 -0500
- Organization: Public Interest Network
- Reply-to: Anne McCormick <mccorma47@xxxxxxxxxxxx>
- Resent-date: Thu, 14 Jun 2012 13:21:50 -0700 (PDT)
- Resent-from: <mayorandcitycouncil@xxxxxxxxxxxxxxxxxxxx>
- Resent-message-id: <20120614202150.0E2A21C977C@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>

Jun 14, 2012

Corvallis City Council Corvallis City Council

Dear Corvallis City Council City Council,

I support a Corvallis plastic bag ban.

For decades, billions of pounds of plastic and other trash have been carried by wind and waves into the Pacific. All this plastic has formed the Pacific Garbage Patch, a toxic soup of trash swirling off our coast. It's becoming an environmental disaster for ocean wildlife. Tens of thousands of sea turtles, whales, birds and seals die every year from contact with plastic pollution.

That's why I strongly support Environment Oregon's plan to cut the flow of pollution into the ocean by banning disposable plastic bags.

It's critical that we reduce the number of single-use plastic bags polluting our environment, and Corvallis can lead the way. In addition to the billions of pounds of plastic floating in the ocean, plastic bags placed in landfills also do not biodegrade. They release harmful chemicals into our soil and, ultimately, into groundwater. This groundwater flows into the rivers and fills the wells that are the source of our drinking water.

My husband and I have lived in Corvallis for 15 years. We believe that our city council should support this measure not only to help the environment (which includes the inhabitants) of Corvallis, but also to help restore environmental health to the soil, rivers, and oceans of our planet. We hope to see a unanimous vote by our city councilors in favor of this important bag ban.

Last year Portland became the first city in Oregon to pass a bag ban and now communities around the state are looking to follow suit. Corvallis should be next.

We should ban plastic bags and do everything we can to encourage the use of reusable bags.

Please pass a ban on single-use checkout plastic bags.

Sincerely,

Anne McCormick
Corvallis, OR 97333-1415



Review

The pollution of the marine environment by plastic debris: a review

José G.B. Derraik *

*Ecology and Health Research Centre, Department of Public Health, Wellington School of Medicine and Health Sciences, University of Otago,
P.O. Box 7343, Wellington, New Zealand*

Abstract

The deleterious effects of plastic debris on the marine environment were reviewed by bringing together most of the literature published so far on the topic. A large number of marine species is known to be harmed and/or killed by plastic debris, which could jeopardize their survival, especially since many are already endangered by other forms of anthropogenic activities. Marine animals are mostly affected through entanglement in and ingestion of plastic litter. Other less known threats include the use of plastic debris by “invader” species and the absorption of polychlorinated biphenyls from ingested plastics. Less conspicuous forms, such as plastic pellets and “scrubbers” are also hazardous. To address the problem of plastic debris in the oceans is a difficult task, and a variety of approaches are urgently required. Some of the ways to mitigate the problem are discussed.

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Keywords: Plastic debris; Pollution; Marine environment

1. Introduction

Human activities are responsible for a major decline of the world's biological diversity, and the problem is so critical that combined human impacts could have accelerated present extinction rates to 1000–10,000 times the natural rate (Lovejoy, 1997). In the oceans, the threat to marine life comes in various forms, such as overexploitation and harvesting, dumping of waste, pollution, alien species, land reclamation, dredging and global climate change (Beatley, 1991; National Research Council, 1995; Irish and Norse, 1996; Ormond et al., 1997; Tickel, 1997; Snelgrove, 1999). One particular form of human impact constitutes a major threat to marine life: the pollution by plastic debris.

1.1. Plastic debris

Plastics are synthetic organic polymers, and though they have only existed for just over a century (Gorman, 1993), by 1988 in the United States alone, 30 million tons of plastic were produced annually (O'Hara et al., 1988). The versatility of these materials has led to a great increase in their use over the past three decades,

and they have rapidly moved into all aspects of everyday life (Hansen, 1990; Laist, 1987). Plastics are lightweight, strong, durable and cheap (Laist, 1987), characteristics that make them suitable for the manufacture of a very wide range of products. These same properties happen to be the reasons why plastics are a serious hazard to the environment (Pruter, 1987; Laist, 1987). Since they are also buoyant, an increasing load of plastic debris is being dispersed over long distances, and when they finally settle in sediments they may persist for centuries (Hansen, 1990; Ryan, 1987b; Goldberg, 1995, 1997).

The threat of plastics to the marine environment has been ignored for a long time, and its seriousness has been only recently recognised (Stefatos et al., 1999). Fergusson (1974) for instance, then a member of the Council of the British Plastics Federation and a Fellow of the Plastics Institute, stated that “plastics litter is a very small proportion of all litter and causes no harm to the environment except as an eyesore”. His comments not only illustrates how the deleterious environmental effects of plastics were entirely overlooked, but also that, apparently, even the plastics industry failed to predict the great boom in the production and use of plastics of the past 30 years. In the marine environment, the perceived abundance of marine life and the vastness of the oceans have led to the dismissal of the proliferation of plastic debris as a potential hazard (Laist, 1987).

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E-mail address: jderraik@wvmeds.ac.nz (J.G.B. Derraik).

The literature on marine debris leaves no doubt that plastics make-up most of the marine litter worldwide (Table 1). Though the methods were not assessed to ensure that the results were comparable, Table 1 clearly indicates the predominance of plastics amongst the marine litter, and its proportion consistently varies between 60% and 80% of the total marine debris (Gregory and Ryan, 1997).

It is not possible to obtain reliable estimates of the amount of plastic debris that reaches the marine environment, but the quantities are nevertheless quite substantial. In 1975 the world's fishing fleet alone dumped into the sea approximately 135,400 tons of plastic fishing gear and 23,600 tons of synthetic packaging material (Cawthorn, 1989; DOC, 1990). Horsman (1982) estimated that merchant ships dump 639,000 plastic con-

tainers each day around the world, and ships are therefore, a major source of plastic debris (Shaw, 1977; Shaw and Mapes, 1979). Recreational fishing and boats are also responsible for dumping a considerable amount of marine debris, and according to the US Coast Guard they dispose approximately 52% of all rubbish dumped in US waters (UNESCO, 1994).

Plastic materials also end up in the marine environment when accidentally lost, carelessly handled (Wilber, 1987) or left behind by beachgoers (Pruter, 1987). They also reach the sea as litter carried by rivers and municipal drainage systems (Pruter, 1987; Williams and Simmons, 1997). There are major inputs of plastic litter from land-based sources in densely populated or industrialized areas (Pruter, 1987; Gregory, 1991), most in the form of packaging. A study on Halifax Harbour

Table 1
Proportion of plastics among marine debris worldwide (per number of items)

| Locality | Litter type | Percentage of debris items represented by plastics | Source |
|---|----------------|--|------------------------------|
| 1992 International Coastal Cleanups | Shoreline | 59 | Anon (1990) |
| St. Lucia, Caribbean | Beach | 51 | Corbin and Singh (1993) |
| Dominica, Caribbean | Beach | 36 | Corbin and Singh (1993) |
| Curaçao, Caribbean | Beach | 40/64 | Debrot et al. (1999) |
| Bay of Biscay, NE Atlantic | Seabed | 92 | Galgani et al. (1995a) |
| NW Mediterranean | Seabed | 77 | Galgani et al. (1995b) |
| French Mediterranean Coast | Deep sea floor | >70 | Galgani et al. (1996) |
| European coasts | Sea floor | >70 | Galgani et al. (2000) |
| Caribbean coast of Panama | Shoreline | 82 | Garrity and Levings (1993) |
| Georgia, USA | Beach | 57 | Gilligan et al. (1992) |
| 5 Mediterranean beaches | Beach | 60–80 | Golik (1997) |
| 50 South African beaches | Beach | >90 | Gregory and Ryan (1997) |
| 88 sites in Tasmania | Beach | 65 | Gregory and Ryan (1997) |
| Argentina | Beach | 37–72 | Gregory and Ryan (1997) |
| 9 Sub-Antarctic Islands | Beach | 51–88 | Gregory and Ryan (1997) |
| South Australia | Beach | 62 | Gregory and Ryan (1997) |
| Kodiak Is, Alaska | Seabed | 47–56 | Hess et al. (1999) |
| Tokyo Bay, Japan | Seabed | 80–85 | Kanehiro et al. (1995) |
| North Pacific Ocean | Surface waters | 86 | Laist (1987) |
| Mexico | Beach | 60 | Lara-Dominguez et al. (1994) |
| Transkei, South Africa | Beach | 83 | Madzena and Lasiak (1997) |
| National Parks in USA | Beach | 88 | Manski et al. (1991) |
| Mediterranean Sea | Surface waters | 60–70 | Morris (1980) |
| Cape Cod, USA | Beach/harbour | 90 | Ribic et al. (1997) |
| 4 North Atlantic harbors, USA | Harbour | 73–92 | Ribic et al. (1997) |
| Is. Beach State Park, New Jersey, USA | Beach | 73 | Ribic (1998) |
| Halifax Harbour, Canada | Beach | 54 | Ross et al. (1991) |
| Price Edward Is., Southern Ocean | Beach | 88 | Ryan (1987b) |
| Gough Is., Southern Ocean | Beach | 84 | Ryan (1987b) |
| Heard Is., Southern Ocean | Beach | 51 | Slip and Burton (1991) |
| Macquire Is., Southern Ocean | Beach | 71 | Slip and Burton (1991) |
| New Zealand | Beach | 75 | Smith and Tooker (1990) |
| Two gulfs in W. Greece | Seabed | 79–83 | Stefatos et al. (1999) |
| South German Bight | Beach | 75 | Vauk and Schrey (1987) |
| Bird Is., South Georgia, Southern Ocean | Beach | 88 ^a | Walker et al. (1997) |
| Fog Bay, N. Australia | Beach | 32 | Whiting (1998) |
| South Wales, UK | Beach | 63 | Williams and Tudor (2001) |

Results are arranged in alphabetical order by author.

^a 76% of total consisted of synthetic line for long-line fisheries.

in Canada, for instance, showed that 62% of the total litter in the harbour originated from recreation and land-based sources (Ross et al., 1991). In contrast, in beaches away from urban areas (e.g. Alaska) most of the litter is made up of fishing debris.

Not only the aesthetically distasteful plastic litter, but also less conspicuous small plastic pellets and granules are a threat to marine biota. The latter are found in large quantities on beaches (Gregory, 1978, 1989; Shiber, 1979, 1982, 1987; Redford et al., 1997), and are the raw material for the manufacture of plastic products that end up in the marine environment through accidental spillage during transport and handling, not as litter or waste as other forms of plastics (Gregory, 1978; Shiber, 1979; Redford et al., 1997). Their sizes usually vary from 2–6 mm, though occasionally much larger ones can be found (Gregory, 1977, 1978).

Plastic pellets can be found across the Southwest Pacific in surprisingly high quantities for remote and non-industrialised places such as Tonga, Rarotonga and Fiji (Gregory, 1999). In New Zealand beaches they are found in quite considerable amounts, in counts of over 100,000 raw plastic granules per meter of coast (Gregory, 1989), with greatest concentration near important industrial centres (Gregory, 1977). Their durability in the marine environment is still uncertain but they seem to last from 3 to 10 years, and additives can probably extend this period to 30–50 years (Gregory, 1978).

Unfortunately, the dumping of plastic debris into the ocean is an increasing problem. For instance, surveys carried out in South African beaches 5 years apart, showed that the densities of all plastic debris have increased substantially (Ryan and Moloney, 1990). In Panama, experimentally cleared beaches regained about 50% of their original debris load after just 3 months (Garrity and Levings, 1993). Even subantarctic islands are becoming increasingly affected by plastic debris, especially fishing lines (Walker et al., 1997). Benton (1995) surveyed islands in the South Pacific and got to the alarming conclusion that beaches in remote areas had a comparable amount of garbage to a beach in the industrialized western world.

2. The threats from plastics pollution to marine biota

There is still relatively little information on the impact of plastics pollution on the ocean's ecosystems (Quayle, 1992; Wilber, 1987). There is however an increasing knowledge about their deleterious impacts on marine biota (Goldberg, 1995). The threats to marine life are primarily mechanical due to ingestion of plastic debris and entanglement in packaging bands, synthetic ropes and lines, or drift nets (Laist, 1987, 1997; Quayle, 1992).

Since the use of plastics continues to increase, so does the amount of plastics polluting the marine environ-

ment. Robards et al. (1995) examined the gut content of thousands of birds in two separate studies and found that the ingestion of plastics by seabirds had significantly increased during the 10–15 years interval between studies. A study done in the North Pacific (Blight and Burger, 1997) found plastic particles in the stomachs of 8 of the 11 seabird species caught as bycatch. The list of affected species indicates that marine debris are affecting a significant number of species (Laist, 1997). It affects at least 267 species worldwide, including 86% of all sea turtle species, 44% of all seabird species, and 43% of all marine mammal species (Laist, 1997). The problem may be highly underestimated as most victims are likely to go undiscovered over vast ocean areas, as they either sink or are eaten by predators (Wolfe, 1987).

There is also potential danger to marine ecosystems from the accumulation of plastic debris on the sea floor. According to Kanehiro et al. (1995) plastics made up 80–85% of the seabed debris in Tokyo Bay, an impressive figure considering that most plastic debris are buoyant. The accumulation of such debris can inhibit the gas exchange between the overlying waters and the pore waters of the sediments, and the resulting hypoxia or anoxia in the benthos can interfere with the normal ecosystem functioning, and alter the make-up of life on the sea floor (Goldberg, 1994). Moreover, as for pelagic organisms, benthic biota is likewise subjected to entanglement and ingestion hazards (Hess et al., 1999).

2.1. Ingestion of plastics

A study done on 1033 birds collected off the coast of North Carolina in the USA found that individuals from 55% of the species recorded had plastic particles in their guts (Moser and Lee, 1992). The authors obtained evidence that some seabirds select specific plastic shapes and colors, mistaking them for potential prey items. Shaw and Day (1994) came to the same conclusions, as they studied the presence of floating plastic particles of different forms, colors and sizes in the North Pacific, finding that many are significantly under-represented. Carpenter et al. (1972) examined various species of fish with plastic debris in their guts and found that only white plastic spherules had been ingested, indicating that they feed selectively. A similar pattern of selective ingestion of white plastic debris was found for loggerhead sea turtles (*Caretta caretta*) in the Central Mediterranean (Gramentz, 1988). Among seabirds, the ingestion of plastics is directly correlated to foraging strategies and technique, and diet (Azzarello and Van-Vleet, 1987; Ryan, 1987a; Moser and Lee, 1992; Laist, 1987, 1997). For instance, planktivores are more likely to confuse plastic pellets with their prey than do piscivores, therefore the former have a higher incidence of ingested plastics (Azzarello and Van-Vleet, 1987).

Ryan (1988) performed an experiment with domestic chickens (*Gallus domesticus*) to establish the potential effects of ingested plastic particles on seabirds. They were fed with polyethylene pellets and the results indicated that ingested plastics reduce meal size by reducing the storage volume of the stomach and the feeding stimulus. He concluded that seabirds with large plastic loads have reduced food consumption, which limits their ability to lay down fat deposits, thus reducing fitness. Connors and Smith (1982) had previously reached the same conclusion, as their study indicated that the ingestion of plastic particles hindered formation of fat deposits in migrating red phalaropes (*Phalaropus fulicarius*), adversely affecting long-distance migration and possibly their reproductive effort on breeding grounds. Spear et al. (1995) however, provided probably the first solid evidence for a negative relationship between number of plastic particles ingested and physical condition (body weight) in seabirds from the tropical Pacific.

Other harmful effects from the ingestion of plastics include blockage of gastric enzyme secretion, diminished feeding stimulus, lowered steroid hormone levels, delayed ovulation and reproductive failure (Azzarello and Van-Vleet, 1987). The ingestion of plastic debris by small fish and seabirds for instance, can reduce food uptake, cause internal injury and death following blockage of intestinal tract (Carpenter et al., 1972; Rothstein, 1973; Ryan, 1988; Zitko and Hanlon, 1991). The extent of the harm, however, will vary among species. Procellariiformes for example, are more vulnerable due to their inability to regurgitate ingested plastics (Furness, 1985; Azzarello and Van-Vleet, 1987).

Laist (1987) and Fry et al. (1987) observed that adults that manage to regurgitate plastic particles could pass them onto the chicks during feeding. The chicks of Laysan albatrosses (*Diomedea immutabilis*) in the Hawaiian Islands for instance, are unable to regurgitate such materials which accumulate in their stomachs, becoming a significant source of mortality, as 90% of the chicks surveyed had some sort of plastic debris in their upper GI tract (Fry et al., 1987). Even Antarctic and sub-Antarctic seabirds are subjected to this hazard (Slip et al., 1990). Wilson's storm-petrels (*Oceanites oceanicus*) for instance, pick up plastic debris while wintering in other areas (Van Franeker and Bell, 1988). A white-faced storm-petrel (*Pelagodroma marina*) found dead at the isolated Chatham Islands (New Zealand) at a breeding site, had no food in its stomach while its gizzard was packed with plastic pellets (Bourne and Imber, 1982).

The harm from ingestion of plastics is nevertheless not restricted to seabirds. Polythene bags drifting in ocean currents look much like the prey items targeted by turtles (Mattlin and Cawthorn, 1986; Gramentz, 1988; Bugoni et al., 2001). There is evidence that their survival

is being hindered by plastic debris (Duguay et al., 1998), with young sea turtles being particularly vulnerable (Carr, 1987). Balazs (1985) listed 79 cases of turtles whose guts were full of various sorts of plastic debris, and O'Hara et al. (1988) cited a turtle found in New York that had swallowed 540 m of fishing line. Oesophagus and stomach contents were examined from 38 specimens of the endangered green sea turtle (*Chelonia mydas*) on the south of Brazil, 23 of which (60.5%) had ingested anthropogenic debris, mainly plastics (Bugoni et al., 2001). Among other *C. mydas* washed ashore in Florida, 56% had anthropogenic debris in their digestive tracts (Bjorndal et al., 1994). Tomás et al. (2002) found that 75.9% of 54 loggerhead sea turtles (*C. caretta*) captured by fishermen had plastic debris in their digestive tracts.

At least 26 species of cetaceans have been documented to ingest plastic debris (Baird and Hooker, 2000). A young male pygmy sperm whale (*Kogia breviceps*) stranded alive in Texas, USA, died in a holding tank 11 days later (Tarpley and Marwitz, 1993). The necropsy showed that the first two stomach compartments were completely occluded by plastic debris (garbage can liner, a bread wrapper, a corn chip bag and two other pieces of plastic sheeting). The death of an endangered West Indian manatee (*Trichechus manatus*) in 1985 in Florida was apparently caused by a large piece of plastic that blocked its digestive tract (Laist, 1987). Deaths of the also endangered Florida manatee (*Trichechus manatus latirostris*) have too been blamed on plastic debris in their guts (Beck and Barros, 1991). Secchi and Zarzur (1999) blamed the fate of a dead Blainville's beaked whale (*Mesoplodon densirostris*) washed ashore in Brazil to a bundle of plastic threads found in the animals' stomach. Coleman and Wehle (1984) and Baird and Hooker (2000) cited other cetaceans that have been reported with ingested plastics, such as the killer whale (*Orcinus orca*).

Some species of fish off the British coast were found to contain plastic cups within their guts that would eventually lead to their death (Anon, 1975). In the Bristol Channel in the summer of 1973, 21% of the flounders (*Platichthys flesus*) were found to contain polystyrene spherules (Kartar et al., 1976). The same study found, that in some areas, 25% of sea snails (*Liparis liparis*) (a fish, despite its common name) were heavily contaminated by such debris. In the New England coast, USA, the same type of spherules were found in 8 out of 14 fish species examined, and in some species 33% of individuals were contaminated (Carpenter et al., 1972).

2.2. Plastics ingestion and polychlorinated biphenyls

Over the past 20 years polychlorinated biphenyls (PCBs) have increasingly polluted marine food webs,

and are prevalent in seabirds (Ryan et al., 1988). Though their adverse effects may not always be apparent, PCBs lead to reproductive disorders or death, they increase risk of diseases and alter hormone levels (Ryan et al., 1988; Lee et al., 2001). These chemicals have a detrimental effect on marine organisms even at very low levels and plastic pellets could be a route for PCBs into marine food chains (Carpenter and Smith, 1972; Carpenter et al., 1972; Rothstein, 1973; Zitko and Hanlon, 1991; Mato et al., 2001).

Ryan et al. (1988) studying great shearwaters (*Puffinus gravis*), obtained evidence that PCBs in the birds' tissues were derived from ingested plastic particles. Their study presented the first indication that seabirds can assimilate chemicals from plastic particles in their stomachs, indicating a dangerous pathway for potentially harmful pollutants. Bjorndal et al. (1994) worked with sea turtles and came to a similar conclusion, that the absorption of toxins as sublethal effects of debris ingestion has an unknown, but potentially great negative effect on their demography.

Plastic debris can be a source of other contaminants besides PCBs. According to Zitko (1993) low molecular weight compounds from polystyrene particles are leached by seawater, and the fate and effects of such compounds on aquatic biota are not known.

2.3. Entanglement in plastic debris

Entanglement in plastic debris, especially in discarded fishing gear, is a very serious threat to marine animals. According to Schrey and Vauk (1987) entanglement accounts for 13–29% of the observed mortality of gannets (*Sula bassana*) at Helgoland, German Bight. Entanglement also affects the survival of the endangered sea turtles (Carr, 1987), but it is a particular problem for marine mammals, such as fur seals, which are both curious and playful (Mattlin and Cawthorn, 1986).

Young fur seals are attracted to floating debris and dive and roll about in it (Mattlin and Cawthorn, 1986). They will approach objects in the water and often poke their heads into loops and holes (Fowler, 1987; Laist, 1987). Though the plastic loops can easily slip onto their necks, the lie of the long guard hairs prevents the strapping from slipping off (Mattlin and Cawthorn, 1986). Many seal pups grow into the plastic collars, and in time as it tightens, the plastic severs the seal's arteries or strangles it (Weisskopf, 1988). Ironically, once the entangled seal dies and decomposes, the plastic band is free to be picked up by another victim (DOC, 1990; Mattlin and Cawthorn, 1986), as some plastic articles may take 500 years to decompose (Gorman, 1993; UNESCO, 1994).

Once an animal is entangled, it may drown, have its ability to catch food or to avoid predators impaired, or

incur wounds from abrasive or cutting action of attached debris (Laist, 1987, 1997; Jones, 1995). According to Feldkamp et al. (1989) entanglement can greatly reduce fitness, as it leads to a significant increase in energetic costs of travel. For the northern fur seals (*Callorhinus ursinus*), for instance, they stated that net fragments over 200 g could result in 4-fold increase in the demand of food consumption to maintain body condition.

The decline in the populations of the northern sea lion (*Eumetopias jubatus*), endangered Hawaiian monk seal (*Monachus schauinslandi*) (Henderson, 1990, 2001) and northern fur seal (Fowler, 1987) seems at least aggravated by entanglement of young animals in lost or discarded nets and packing bands. In the Pribiloff Islands alone, in the Bering Sea west of Alaska, the percentage of northern fur seals returning to rookeries entangled in plastic bands rose from nil in 1969 to 38% in 1973 (Mattlin and Cawthorn, 1986). The population in 1976 was declining at a rate of 4–6% a year, and scientists estimated that up to 40,000 fur seals a year were being killed by plastic entanglement (Weisskopf, 1988). A decline due to entanglement also seems to be occurring with Antarctic fur seals (*Arctocephalus gazella*) (Croxall et al., 1990). Pemberton et al. (1992) and Jones (1995) both reported similar concern for Australian fur seals (*Arctocephalus pusillus doriferus*). At South-east Farallon Island, Northern California, a survey from 1976–1988 observed 914 pinnipeds entangled in or with body constrictions from synthetic materials (Hanni and Pyle, 2000).

Lost or abandoned fishing nets pose a particular great risk (Jones, 1995). These "ghost nets" continue to catch animals even if they sink or are lost on the seabed (Laist, 1987). In 1978, 99 dead seabirds and over 200 dead salmon were counted during the retrieval of a 1500 m ghost net south of the Aleutian Islands (DeGange and Newby, 1980). In a survey done in 1983/84 off the coast of Japan, it was estimated that 533 fur seals were entangled and drowned in nets lost in the area (Laist, 1987). Whales are also victims, as "they sometimes lunge for schools of fish and surface with netting caught in their mouths or wrapped around their heads and tails" (Weisskopf, 1988).

2.4. Plastic "scrubbers"

Studies (Gregory, 1996; Zitko and Hanlon, 1991) have drawn attention to an inconspicuous and previously overlooked form of plastics pollution: small fragments of plastic (usually up to 0.5 mm across) derived from hand cleaners, cosmetic preparations and airblast cleaning media. The environmental impact of these particles, as well as similar sized flakes from degradation of larger plastic litter, has not been properly established yet.

In New Zealand and Canada, polyethylene and polystyrene scrubber grains respectively were identified in the cleansing preparations available in those markets, sometimes in substantial quantities (Gregory, 1996). In airblasting technology, polyethylene particles are used for stripping paint from metallic surfaces and cleaning engine parts, and can be recycled up to 10 times before they have to be discarded, sometimes significantly contaminated by heavy metals (Gregory, 1996). Once discarded they enter into foul water or reticulate sanitary systems, and though some may be trapped during sewage treatment, most will be discharged into marine waters; and as they float, they concentrate on surface waters and are dispersed by currents (Gregory, 1996).

There are many possible impacts of these persistent particles on the environment (Zitko and Hanlon, 1991). For instance, heavy metals or other contaminants could be transferred to filter feeding organisms and other invertebrates, ultimately reaching higher trophic levels (Gregory, 1996).

2.5. Drift plastic debris: possible pathway for the invasion of alien species

The introduction of alien species can have major consequences for marine ecosystems (Grassle et al., 1991). This biotic mixing is becoming a widespread problem due to human activities, and it is a potential threat to native marine biodiversity (McKinney, 1998). According to some estimates, global marine species diversity may decrease by as much as 58% if worldwide biotic mixing occurs (McKinney, 1998).

Plastics floating at sea may acquire a fauna of various encrusting organisms such as bacteria, diatoms, algae, barnacles, hydroids and tunicates (Carpenter et al., 1972; Carpenter and Smith, 1972; Minchin, 1996; Clark, 1997). The bryozoan *Membranipora tuberculata*, for instance, is believed to have crossed the Tasman Sea, from Australia to New Zealand, encrusted on plastic pellets (Gregory, 1978). The same species together with another bryozoan (*Electra tenella*) were found on plastics washed ashore on the Florida coast, USA, and they seem to be increasing their abundance in the region by drifting on plastic debris from the Caribbean area (Winston, 1982; Winston et al., 1997). Minchin (1996) also describes barnacles that crossed the North Atlantic Ocean attached to plastic debris.

Drift plastics can therefore increase the range of certain marine organisms or introduce species into an environment where they were previously absent (Winston, 1982). Gregory (1991, 1999) pointed out that the arrival of unwanted and aggressive alien taxa could be detrimental to littoral, intertidal and shoreline ecosystems. He emphasised the risk to the flora and fauna of conservation islands, for instance, as alien species could arrive rafted on drifting plastics.

3. Discussion and recommendations

Though the seas cover the majority of our planet's surface, far less is known about the biodiversity of marine environments than that of terrestrial systems (Ormond et al., 1997). Irish and Norse (1996) examined all 742 papers published in the journal *Conservation Biology* and found that only 5% focused on marine ecosystems and species, compared with 67% on terrestrial and 6% on freshwater. As a result of this disparity, marine conservation biology severely lags behind the terrestrial counterpart (Murphy and Duffus, 1996), and this gap of knowledge poses major problems for conservation of marine biodiversity and must be addressed.

This study shows that there is overwhelming evidence that plastic pollution is a threat to marine biodiversity, already at risk from overfishing, climate change and other forms of anthropogenic disturbance. So far however, that evidence is basically anecdotal. There is a need for more research (especially long term monitoring) to assess the actual threat posed by plastic debris to marine species. The research information would provide input for conservation management, strengthen the basis for educational campaigns, and also provide marine scientists with better evidence that could be used to demand from the authorities more effort to mitigate the problem. Due to the long life of plastics on marine ecosystems, it is imperative that severe measures are taken to address the problem at both international and national levels, since even if the production and disposal of plastics suddenly stopped, the existing debris would continue to harm marine life for many decades.

3.1. Plastics pollution and legislation

There have been nevertheless some attempts to promote the conservation of the world's oceans through international legislation, such as the establishment of the 1972 Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter (the London Dumping Convention or LDC). The most important legislation addressing the increasing problem of marine pollution is probably the 1978 Protocol to the International Convention for the Prevention of Pollution from Ships (MARPOL), which recognised that vessels present a significant and controllable source of pollution into the marine environment (Lentz, 1987).

The Annex V of MARPOL is the key international authority for controlling ship sources of marine debris (Ninaber, 1997), and came into effect in 1988 (Clark, 1997). It "restricts at sea discharge of garbage and bans at sea disposal of plastics and other synthetic materials such as ropes, fishing nets, and plastic garbage bags with limited exceptions" (Pearce, 1992). More importantly, the Annex V applies to all watercraft, including small

recreational vessels (Nee, 1990). Seventy-nine countries have so far ratified the Annex V (CMC, 2002), and the signatory countries are required to take steps to fully implement it. Annex V also refers to “special areas”, including the Mediterranean Sea, the Baltic Sea, the Black Sea, the Red Sea and the “Gulfs” areas, where discharge regulations are far more strict (Lentz, 1987).

Nevertheless, the legislation is still widely ignored, and ships are estimated to discard 6.5 million tons per year of plastics (Clark, 1997). Observers on board foreign fishing vessels within Australian waters, for instance, found that at least one-third of the vessels did not comply with the MARPOL regulations on the disposal of plastics (Jones, 1995). As Kirkley and McConnell (1997) pointed out, the compliance of individuals with laws is partly a question of economics. They believe most people (or companies) would not change their attitude if stopping the dumping of plastics into the ocean were economically costly. Henderson (2001) assessed the impact of Annex V and found reduction neither in the accumulation of marine debris nor in the entanglement rate of Hawaiian monk seals in the Northwestern Hawaiian Islands. Amos (1993) and Johnson (1994) however, found that it has been of some effect in reducing plastic litter in the oceans.

Legislation at the national level also plays an important role. Individual countries can be effective through their own legislation, such as laws that require degradability standards or that encourage recycling (Bean, 1987). In the USA, for instance, the Marine Plastics Pollution Research and Control Act of 1987 not only adopted Annex V, but also extended its application to US Navy vessels (Nee, 1990; Bentley, 1994). Ports and ocean carriers have to adapt to these regulations prohibiting the disposal of plastics at sea (Nee, 1990). The biggest difficulty however when it comes to legislation, is to actually enforce it in an area as vast as the world's oceans. It is therefore essential that neighbouring countries work together in order to ensure that all vessels comply with Annex V.

3.2. Other issues and ways to prevent marine pollution

Education is also a very powerful tool to address the issue, especially if it is discussed in schools. Youngsters not only can change habits with relative ease, but also be able to take their awareness into their families and the wider community, working as catalysts for change. Since land-based sources provide major inputs of plastic debris into the oceans, if a community becomes aware of the problem, and obviously willing to act upon it, it can actually make a significant difference. The power of education should not be underestimated, and it can be more effective than strict laws, such as the Suffolk County Plastics Law (in New York, USA) that banned

some retail food packaging and was unsuccessful in reducing beach and roadside litter (Ross and Swanson, 1995). There may also be a need for financial incentives as Ray and Grassle (1991) stressed “no effort to conserve biological diversity is realistic outside the economics and public policies that drive the modern world”.

There are also more complicated aspects of the problem of plastic pollution. As it could be seen as a “side-effect” of progress, those countries undergoing economic development will seek their share of growth, putting an increasing pressure on the environment. It is unlikely that such nations would take any steps to reduce the use of plastics or their disposal into the oceans, if that would compromise any short-term economic gain. Especially when nations from the developed world are being careless themselves, and still failing to comply with the requirements of Annex V.

One possibility to mitigate the problem is the development and use of biodegradable and photodegradable plastics (Wolf and Feldman, 1991; Gorman, 1993). The US Navy, for instance, was working on a promising biopolymer (regenerated cellulose) for the fabrication of marine-disposable trash bags (Andrady et al., 1992). Unfortunately, the effects of the final degradation products of those materials are not yet known, and there is the danger of substituting one problem for another (Horsman, 1985; Wolf and Feldman, 1991; Quayle, 1992). Therefore studies were being done, for example, to monitor the degradation of polymers in natural waters under real-life conditions (Mergaert et al., 1995) and assess the impact of degradation products on estuarine benthos (Doering et al., 1994).

3.3. Final remarks

Ultimately, all sectors of the community should take their individual steps. *Thinking globally and acting locally* is a fundamental attitude to reduce such an environmental threat. A combination of legislation and the enhancement of ecological consciousness through education is likely to be the best way to solve such environmental problems. The general public and the scientific community have also the responsibility of ensuring that governments and businesses change their attitudes towards the problem. It is nevertheless certain that the environmental hazards that threaten the oceans' biodiversity, such as the pollution by plastic debris, must be urgently addressed.

“The last fallen mahogany would lie perceptibly on the landscape, and the last black rhino would be obvious in its loneliness, but a marine species may disappear beneath the waves unobserved and the sea would seem to roll on the same as always” (Ray, 1988, p. 45).

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Please Support Banning the Bag in Corvallis!

- To: ward1@xxxxxxxxxxxxxxxxxxxxxxxxxxxx
- Subject: Please Support Banning the Bag in Corvallis!
- From: Abby Terris <abbydharma@xxxxxxxx>
- Date: Fri, 15 Jun 2012 15:53:01 -0500 (CDT)
- Organization: Sierra Club
- Reply-to: Abby Terris <abbydharma@xxxxxxxx>

Jun 15, 2012

Mr. Mark O'Brien
501 SW Madison Avenue
Corvallis, OR 97333-4601

Dear Mr. O'Brien,

I support banning single-use plastic checkout bags with a 5-cent cost on paper bags. This is the most effective way to reduce plastic in our environment and community. More than 50 downtown Corvallis businesses, and thousands of Corvallis citizens, support this effort.

Please Vote Yes. Banning plastic bags best addresses the problems of single-use plastic bag waste, and most effectively moves consumers to sustainable alternatives.

Our dependence on "free" single-use plastic products has devastating effects on the environment. Free bags hide the fact that they are neither free to the consumer nor to the environment. From the Great Pacific Garbage Patch to the thousands of marine animals who die each year, plastic bags are contributing to environmental damage to our ocean systems.

A 5-cent fee on paper bags will cut back on waste and move us to bring our reusable bags. There is no reason something we use for a few minutes should last a few hundred years.

Corvallis is known for its environmental standards nationwide, and is ready to pass a ban here. Of the bag bans in effect in the US, none have demonstrably hurt consumers or local business, but they have saved consumers, cities, and businesses the expenses incurred from dealing with these products.

Corvallis has the chance to set an example for other communities, and lay the groundwork for a statewide solution in 2013. Please ban single use plastic checkout bags here in Corvallis.

Sincerely,

Ms. Abby Terris
[Redacted]
Corvallis, OR 97333

- Prev by Date: **Please Support Banning the Bag in Corvallis!**
- Next by Date: **Please Support Banning the Bag in Corvallis!**

5



Fraud Law Resources for Oregon and Washington

Defining Fraud

WHAT IS FRAUD?

Most people think of fraud as a evil practice. But "fraud" as used in law means simply action or lack of action that is punishable by law. Fraud is defined by the legislature and the courts. It includes outright deception, and sometimes almost "accidental" misrepresentation. In some circumstances (like investments) fraud includes failure to disclose or to tell the whole truth. Sometimes the law makes people like officers and directors and those who assist in furthering the fraud liable even if they did not know about the fraud.

The definition of fraud has undergone change throughout the centuries. The courts have always been careful to avoid limiting fraud by devising a too rigid definition. In the 19th century juries were often given the authority to determine fraud without the assistance of defining jury instruction. The court was determining fraud on ad hoc based on the standard of the community (or the particular jury). Now fraud has come to be defined by courts generally to require an intentional misrepresentation that was properly relied upon by the plaintiff and caused the plaintiff damages.

State law is influenced by the Restatement of Law published by nationally renown legal scholars. Sometimes the states follow the Restatement position completely and sometimes they chose a state-specific variation. The Restatement (Second) of Torts (1965) organizes the topic under Misrepresentation in four divisions: 1) Fraudulent Misrepresentation (Deceit); 2) Concealment and Non Disclosure; 3) Negligent Misrepresentation; and 4) Innocent Misrepresentation. This represents a progression of mental culpability from intentional or knowing, then active concealment, then negligently misrepresenting and finally harming some through an unknowing falsehood.

The law becomes very complex when the other factors comprising actionable fraud are added. However limiting our discussion to the mental state, the Restatement defines fraud as:
 § 526 Conditions Under Which Misrepresentation Is Fraudulent (Scienter) A misrepresentation is fraudulent if the maker (a) knows or believes that the matter is not as he represents it to be, (b) does not have the confidence in the accuracy of his representation that he states or implies, or (c) knows that he does not have the basis for his representation that he states or implies.

In Oregon and Washington, the term "fraud" has come to have a definite meaning through case law. Oregon law provides 9 elements that must be proved by "clear and convincing" evidence, a standard that is higher than the normal civil case standard of "preponderance of the evidence" and lower than the criminal standard of "beyond a reasonable doubt."

The 9 elements of Oregon fraud are: 1) A representation; 2) Its falsity; 3) Its materiality; 4) The speaker's knowledge of the representation's falsity or ignorance of its truth; 5) Intent that the representation be acted on in a manner reasonably contemplated; 6) The hearer's ignorance of the falsity of the representation; 7) The hearer's reliance on its truth; 8) The hearer's right to rely on the representation; and 9) Damage caused by the representation. *Musgrave v. Lucas*, 193 Or 401, 410, 238 P2d 780 (1951); *Webb v Clark*, 274 Or 387, 391, 546 P2d 1078 (1976).

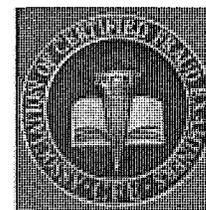
Washington also has identified 9 almost identical elements of the cause of action for fraud. As the court in *Pedersen v. Bibioff*, 64 Wn. App. 710, 828 P.2d 1113 (1992) wrote at page 723,

To sustain a finding of common law fraud, the trial court in most cases must make findings of fact as to each of the nine elements of fraud. *Howell v. Kraft*, 10 Wash. App. 266, 517 P.2d 203 (1973). Those elements generally are: (1) a representation of an existing fact, (2) its materiality, (3) its falsity, (4) the speaker's knowledge of its falsity or ignorance of its truth, (5) his intent that it should be acted on by the person to whom it is made, (6) ignorance of its falsity on the part of the person to whom it is made, (7) the latter's reliance on the truth of the representation, (8) his right to rely upon it, and (9) his consequent damage. See *Turner v. Enders*, 15 Wash .App. 875, 878, 552 P.2d 694 (1976).

Washington has adopted the Restatement but the appellate courts have not ruled on all issues so there are numerous Washington cases that have been implicitly overruled. See e.g. *Janda v Brier Realty*, 97 Wn App 45, 984 P2d 412 (1999). The Restatement may have changed the nine

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- [Fraud by Businesses](#)
- [Fraud by Fiduciaries](#)
- [Fraud on Government](#)
- [Definitions](#)



Madam Mayor and members of the Council: My name is Bruce Harmon, President of Harmon Communications. I am also a member of Voters for Effective Environmental Policy.

Throughout the long process of creating this plastic bag ban, solid, scientific information opposing it was presented in writing. As you have just heard, with this ban, you have imposed upon us citizens an unnecessary and cumbersome burden with several unintended consequences:

- It inconveniences the entire Corvallis population and the many thousands of visitors who shop here.
- It injects a potentially severe health hazard into the retail process.
- It puts an unnecessary strain on downtown businesses as demonstrated by Susan McMahan of Donna Bella.
- It further burdens the disabled and elderly due to the lack of smaller lightweight, plastic bags that are clean and easier to carry.
- It requires retail checkout personnel to handle all types of bags, clean or dirty.

Another interesting fact is customer-provided cloth bags have contributed to increased shoplifting at retailers where the ban is in place. And they will here.

Thanks to this ban, presented from a small minority of well meaning folks, we moved from 100% recyclable plastic bags to only partially recyclable paper bags, heavier plastic bags, non-recyclable cloth bags and a mandatory charge for retailer-supplied bags. In short, we replaced recyclables with non-recyclables.

The effort and money put into this ban could be better spent educating and promoting plastic bag recycling. We at Voters for Effective Environmental Policy would be happy to volunteer our efforts and ideas for bag recycling education and promotion.

It is my opinion that this Council or governments at any level should not make decisions based on feelings, fads or emotions. Decisions should be based on, first, the law, then logical, unbiased and scientific information, and finally the wishes of the constituent majority.

Let's not meddle with an efficient, market-based and more sanitary process. Let the public choose how they shop. Let the retailers provide the option of "paper or plastic" as they have in the past.

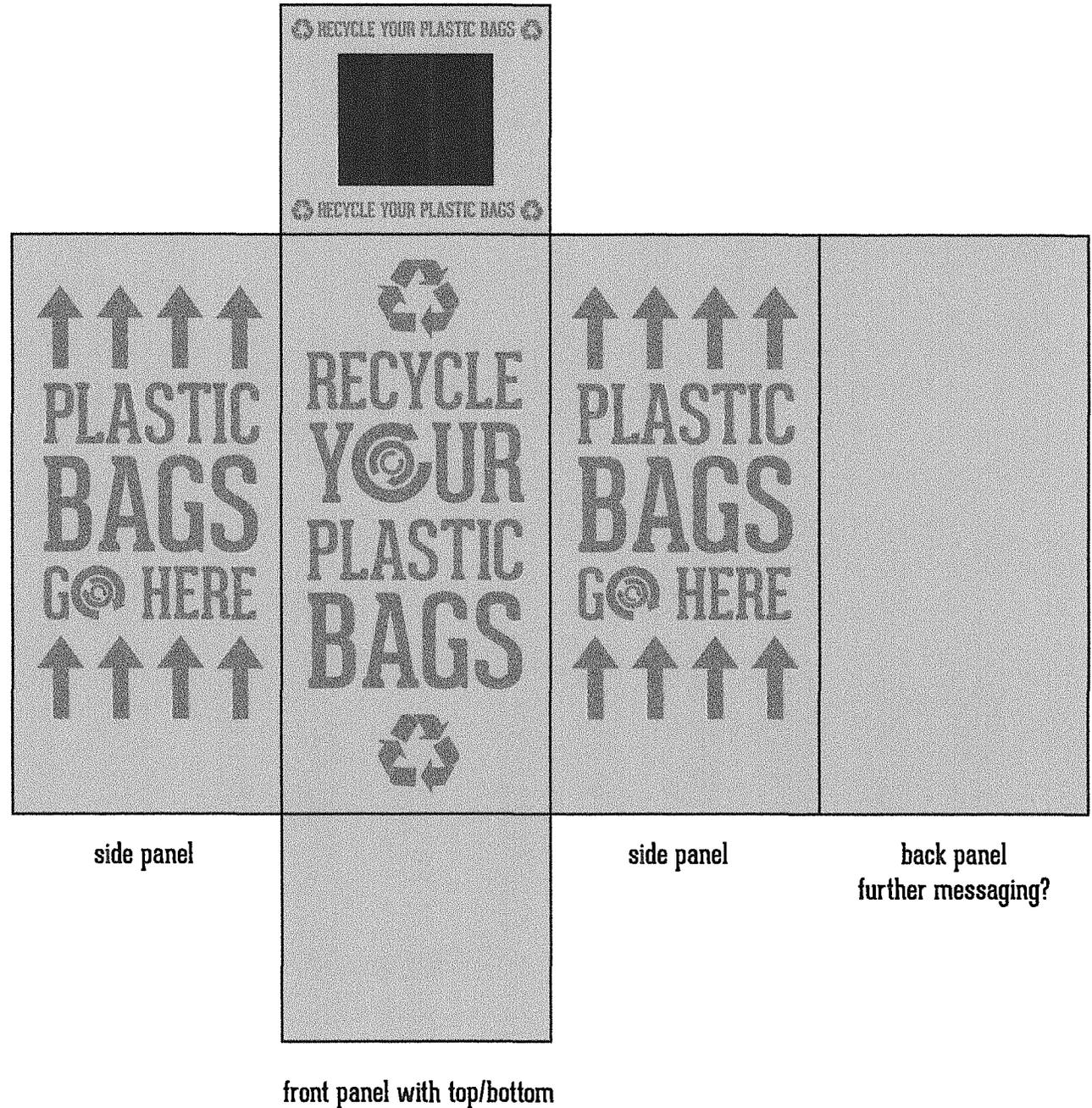
We now know that plastic bags made from abundant, inexpensive natural gas are easier on the environment than the alternative you have forced upon us.

We recommend either repealing this ban now before more strain is placed on small businesses and the public, or at least putting it on the ballot now for the next election.

Bruce Harmon
Voters for Effective Environmental Policy
<https://sites.google.com/site/veeepcv/>

Plastic Bag Recycling Center

Tall rectangular box with die-cut window for inserting plastic grocery bags. Made from recycled material with one color printing for affordable reproduction.



PROPOSED PLASTIC BAG ORDINANCE for CORVALLIS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CORVALLIS ENCOURAGING REUSABLE BAGS
AND PROHIBITING THE USE OF SINGLE-USE PLASTIC CARRYOUT BAGS

Section 1. Findings.

WHEREAS the city of Corvallis has a duty to protect the natural environment, the economy, and the health of its citizens;

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;

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;

WHEREAS The expansive use of plastic shopping bags and their typical disposal creates an impediment to the city's goals;

WHEREAS Single-use plastic shopping bags are difficult to recycle and frequently contaminate material that is collected through Corvallis' recycling and composting programs. The City recognizes that reusable bags are the best alternative to Single-use plastic shopping bags. Recycled content paper checkout bags are also an alternative, as they 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;

WHEREAS Plastic shopping bags create significant litter problems in neighborhoods, on Oregon's beaches, and in sewer systems;

WHEREAS Plastic shopping bags have significant environmental impacts each year; whereas reusable bags are the best option to reduce waste and litter, protect wildlife, and conserve resources;

WHEREAS Governments in several countries and cities in the U.S. have banned or taken action to discourage the use of plastic bags, including Portland, Oregon;

WHEREAS The City has determined that a minimum cost pass-through of \$0.05 per Recycled Paper Bag would cover the reasonable cost to a store of providing the paper

bags to its Customers, in addition to the savings of not purchasing single-use plastic bags; and

- a) other jurisdictions have imposed paper bag fees and these fees have proven very effective at generating a major shift in consumer behavior toward the use of reusable bags and significantly reducing single-use bag consumption; and
- b) Fred Meyer's experience in their 10 Portland stores shows that when plastic bags are removed, consumers overwhelmingly switch to paper—which becomes a hardship for small retailers and moves the problem from one single-use bag to another;

WHEREAS The Corvallis City Council passed Resolution 2011-06, which relates to and supports an Ordinance:

Section 1 of Resolution 2011-16:

“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 check-out 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 of Resolution 2011-16:

“ 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.”

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS DOES ORDAIN AS FOLLOWS:

Section 2. Short Title.

This Ordinance shall be entitled “Encourage Reusable Bags and Ban Single-Use Plastic Carryout Bags.”

Section 3. Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

- (a) "ASTM Standard" means the current American Society for Testing and Materials (ASTM)'s International current D-6400.
- (b) "Carryout Bag" means any bag that is provided by a Retail Establishment at the point of sale to a Customer for use to transport or carry away purchases, such as merchandise, goods or food, from the Retail Establishment. “Carryout Bag” does not include:
 - (1) Bags used by consumers inside stores to:
 - (A) package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;

- (B) contain or wrap frozen foods, meat, fish, whether packaged or not;
 - (C) contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - (D) contain unwrapped prepared foods or bakery goods; or
 - (E) Pharmacy prescription bags;
- (2) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
- (3) Product Bags.
- (c) "City Sponsored Event" means any event organized or sponsored by the City of Corvallis or any Department of the City of Corvallis.
- (d) "Customer" means any person obtaining goods from a Retail Establishment or a Vendor.
- (e) "Food Provider" means any person in the City of Corvallis that provides prepared food for public consumption on or off its premises and includes, without limitation, any store, shop, sales outlet, restaurant, Grocery Store, delicatessen, or catering truck or vehicle.
- (f) "Grocery Store" means any Retail Establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.
- (g) "Pharmacy" means a retail use where the profession of pharmacy by a pharmacist licensed by the State of Oregon in accordance with the Business and Professions Code is practiced and where prescription medications are offered for sale.
- (h) "Product Bag" means any bag provided to a Customer for use within a Retail Establishment to assist in the collection or transport of products to the point of sale within the Retail Establishment. A Product Bag is not a Carryout Bag.
- (i) "Recyclable Paper Bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber; (2) is 100% recyclable and contains a minimum of 40% postconsumer recycled content; (3) displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag; and (4) is capable of composting consistent with the timeline and specifications of the ASTM Standard as defined in this section.
- (j) "Retail Establishment" means any store or Vendor located within or doing business within the geographical limits of the City of Corvallis that sells or offers for sale goods at retail.
- (k) "Reusable Bag" means a bag made of cloth or other fabric with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:
- (1) has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet;
 - (2) is machine washable; and
 - (3) if plastic, has a minimum plastic thickness of 2.25 mils.
- (l) "Vendor" means any store, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the City of Corvallis, which provides perishable or nonperishable goods for sale to the public. A Vendor is a Retail Establishment.
- (m) "Single-Use Plastic Carryout Bag" means any plastic Carryout Bag made available by a Retail Establishment to a Customer at the point of sale. It does not include Reusable Bags, Recycled Paper Bags, or Product Bags.

Section 4. Regulations.

Except as exempted in Section 6,

- (a) No Retail Establishment shall provide or make available to a Customer a Single-Use Plastic Carryout Bag;
- (b) All Retail Establishments shall make available to a Customer at the point of sale a Reusable Bag or a Recycled Paper Bag; and
- (c) No person shall distribute a Single-Use Plastic Carryout Bag at any City Facility, City managed concession, City sponsored event, or City permitted event.

Section 5. Cost Pass-Through.

When a Retail Establishment makes a Recycled Paper Bag available to a Customer at the point of sale pursuant to Section 4(b), the Retail Establishment shall:

- (a) Charge the Customer a reasonable pass-through cost of not less than 5 cents per Recycled Paper Bag provided to the Customer; and
- (b) Indicate on the Customer's transaction receipts the total amount of the Paper Bag Pass-Through charge.

Section 6. Exemptions.

Notwithstanding the regulations contained in Sections 4 & 5:

- (a) Single-Use Plastic Carryout Bags may be distributed to Customers by Food Providers for the purpose of safeguarding public health and safety during the transportation of hot prepared take-out foods and prepared liquids intended for consumption away from the Food Provider's premises.
- (b) Retail Establishments may distribute Product Bags and may make Reusable Bags available to Customers whether through sale or otherwise.
- (c) Notwithstanding the requirements contained in Section 4: A store shall provide a Customer participating in any one of the following programs with a Reusable Bag or a Recycled Paper Bag at no cost at the point of sale:
 - (1) Customers who use a voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 409.600;
 - (2) Customers who use an electronic benefits card issued by the Department of Human Services.
- (d) The Mayor, at his or her sole discretion, may exempt a Retail Establishment from the requirements of this Chapter for up to one year upon a showing by the Retail Establishment that the requirements of this Chapter would cause the Retail Establishment an undue hardship. As used in this subparagraph, an "undue hardship" shall only mean:
 - 1. Circumstances unique to the Retail Establishment such that there are no reasonable alternatives to Single-Use Plastic Carryout Bags;
 - 2. Circumstances unique to the Retail Establishment such that the Cost Pass-Through cost cannot reasonably be collected; or
 - 3. Any other circumstances unique to the Retail Establishment which justify the exemption described in subparagraph (d).
- (e) If a Retail Establishment requires an exemption beyond the initial exemption period, the Retail Establishment must re-apply prior to the end of the exemption period and must

demonstrate continued undue hardship if it wishes to have the exemption extended. Extensions may only be granted for intervals not to exceed one year.

(f) An exemption request shall include all information necessary for the Mayor to make his or her decision, including but not limited to documentation showing the factual support for the claimed exemption. The Mayor may require the applicant to provide additional information to permit the Mayor to determine whether the facts support another exemption request.

(g) The Mayor may approve the exemption request, in whole or in part, with or without conditions.

(h) Exemption decisions are effective immediately, are final and are not appealable.

(i) The City Council may by resolution establish a fee for exemption requests. The fee shall be sufficient to cover the costs of processing the exemption request.

(j) Notwithstanding the requirements contained in Sections 4 and 5: Vendors at farmers' markets may distribute Recycled Paper Bags and other non-prohibited carryout devices without charge but are not required to provide or offer carryout devices.

Section 7 Remedies.

(a) The Mayor is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Chapter, including, but not limited to, inspecting any retail establishment's premises to verify compliance.

(b) Any person violating this Chapter shall be punishable by a fine equal to the cost of enforcement. For the purposes of this section, "cost of enforcement" shall mean the number of hours expended by City personnel in investigating and prosecuting the violation, rounded up to the nearest tenth of an hour, multiplied by \$75 per hour.

(c) The City Attorney may also seek legal, injunctive, or other equitable relief to enforce this Chapter.

(d) Administrative enforcement of this ordinance shall proceed pursuant to Corvallis Municipal Code with the fines to be graduated for repeat violations in amounts set forth by City Council resolution.

(e) Each violation of this Chapter shall be considered a separate offense.

(f) The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this Chapter shall preclude any person from pursuing any other remedies provided by law.

(g) Notwithstanding any other provision of this Ordinance, commencing on the date the Ordinance becomes effective, this Ordinance may be enforced through any remedy as provided for in this Section. This Ordinance shall be enforced one year from the date of its enactment.

(h) All fines collected pursuant to this Section shall be deposited into the City's general fund; provided, however that the City may designate up to one-half of the fines collected to be spent by the City on community outreach and educational programs which focus on sustainable practices and/or policies.

Section 8. The City shall establish a website containing information on this Ordinance. The website must include the following information:

(a) Who is affected by the Ordinance;

(b) What the Ordinance requires;

(c) How the Ordinance is implemented and enforced;

(d) When the Ordinance becomes effective and enforceable;

(e) Why the Ordinance is being implemented by the City.

Section 9. Any provision of the Corvallis Municipal Code or appendices that is inconsistent with the provisions of this Ordinance is hereby repealed or modified, but only to the extent necessary to effect the provisions of this Ordinance.

Section 10. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 11. Any provision of this Ordinance that is inconsistent with any applicable requirements of the Oregon Revised Statutes or the Oregon Administrative Rules is hereby repealed or modified, but only to the extent necessary to make this Ordinance consistent with that other state law or regulation. If any provision of this Ordinance is more strict than any applicable requirement of the Oregon Revised Statutes or the Oregon Administrative Rules, then the provisions of this Ordinance shall apply.

Section 12. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days of adoption.

Section 13. **EFFECTIVE DATE.** This ordinance shall become effective immediately after enactment.

Louie, Kathy

From: Betty Griffiths
Sent: Sunday, February 03, 2013 10:41 PM
To: Louie, Kathy
Subject: Proposals from Jeff Hess

Kathy, please provide the following to the Council tomorrow.

Dear City Council:

I am out of town and unable to attend your meeting, but I want to share my comments with you.

Please have a thorough discussion and act on the three requests from Jeff Hess. I do not recall the two items (rounding and counting the street width as a part of the measurement for lots) as proposals that got any attention when the LDC was updated when I was on Council. Maybe Hal remembers this? At the time we were under pressure to ensure we were getting sufficient density to meet the State's requirements for needed housing and to finish all of the huge changes made in the code. I do not know who proposed these two items, but it may have been staff. Now it is clear that these two changes have had serious unintended consequences in a large area of our city. Please do not wait for the process of the Collaboration project to work on these items as that will cause undue delay, up to 2-3 more months before recommendations being worked on now will get to you to consider. **SEND THESE TWO ITEMS TO THE PLANNING COMMISSION FOR REVIEW NOW!**

Re the moratorium request: Please do not brush this off lightly. The memo from the City Attorney has his reasons why you should not pursue this. However, you need to have a serious discussion about this issue and decide for yourselves on the appropriate course of action. And provide residents with your own rationale for whatever decision you chose to make regarding holding a hearing on this request.

Thank you very much.

Sincerely,
Betty Griffiths

Louie, Kathy

To: Mark O'Brien
Subject: RE: Public Safety Tax

----- Forwarded message -----

From: Mark O'Brien
Date: Mon, Feb 4, 2013 at 3:13 PM
Subject: Public Safety Tax
To: mayorandcitycouncil@corvallisoregon.gov
Cc: "Patterson, Jim" <Jim.Patterson@corvallisoregon.gov>

2/4/13

Dear Mayor and City Council,

I'm writing you about the possible implementation of a "public safety tax" levied as an adjunct to the City utility bill. I'm sure it will come as little surprise that I stand strenuously opposed to the institution of such a regressive tax, especially in the absence of voter approval. Irrespective of whether you may legally do so, I believe that continuing to pursue this particular revenue generating model is neither in the best interest of taxpayers nor the City. Such an action would likely be viewed as a serious violation of citizen trust and thus lessening the likelihood of voter support in future and vitally important levy elections. Eventually they will say "enough is enough".

May I suggest that rather than "playing chicken" with taxpayers (because a "public safety tax" on the water bill will most certainly be the subject of a referendum) the Council simply offer voters a local option levy in support of desired public safety services? I strongly support such an action. We know the high level of support within the community for public safety services and so allowing voters to decide whether or not to support a public safety levy is very low risk action. Taken in concert with the upcoming levy renewal for Parks and Library services, information gleaned from a Public Safety Levy campaign would very likely assist you as you continue the difficult work of better aligning the provision of needed (versus wanted) City services with a diminishing/constrained resource base.

Respectfully,

Mark O'Brien, Member, Corvallis Budget Commission

Corvallis, OR 97333