CITY OF OREGON CITY
URBAN RENEWAL COMMISSION
AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, March 19, 2025 at 6:00 PM

Ways to participate in this public meeting:

- *Attend in person, location listed above. Please see the public comment guidelines below.*
- *Attend the livestream of the meeting on the City's YouTube Channel: https://www.youtube.com/user/CityofOregonCity*
- *Register to provide electronic testimony (email recorderteam@orcity.org or call 503-496-1509 by 3:00 PM on the day of the meeting to register)*
- *Email recorderteam@orcity.org (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045*

1. CALL TO ORDER AND ROLL CALL

2. PUBLIC COMMENTS

Please see the public comment guidelines below.

3. DISCUSSION ITEMS

a. Urban Renewal Commission Discussion of Section 59 of the Oregon City Charter

4. COMMUNICATIONS

a. Urban Renewal Budget Committee Appointments

5. ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the clerk. When the Chair calls your name, proceed to the speaker table, and state your name and city of residence. Each speaker is given 3 minutes to speak. As a general practice, the committee does not engage in discussion with those making comments. Complaints shall be addressed at the department level prior to addressing the committee.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.

CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: Urban Renewal Commission **Agenda Date:** March 19, 2025
From:

SUBJECT:
Item 3.a. - Urban Renewal Commission Discussion of Section 59 of the Oregon City Charter

STAFF RECOMMENDATION:
Staff recommends that the Urban Renewal Commission discuss the options identified concerning the limitations of Section 59 of the Oregon City Charter and provide staff direction on how to proceed.

EXECUTIVE SUMMARY:
The Urban Renewal Commission met on February 11, 2025 and began a discussion on how to proceed with Urban Renewal in Oregon City and the limitations of Section 59 of the Oregon City Charter on the districts' ability to operate. The February 11, 2025 staff report and exhibits are attached. The staff report outlined 7 options for the Urban Renewal Commission to discuss:
1. Place a new measure on the ballot requesting approval to take on a certain amount of debt to complete one or more projects.
2. Place a measure on the ballot to rescind the entirety of Section 59 of the Oregon City Charter.
3. Close the district.
4. Close the district and a create a new district.
5. The Urban Renewal Agency could sue the City of Oregon City seeking a declaratory judgment that Section 59 is preempted and unenforceable.
6. The Urban Renewal Agency could take an action and then file a validation suit asking the court to examine and judge the regularity and legality of the action.
7. The Urban Renewal Agency could act contrary to the terms of Section 59 of the Oregon City Charter.
8. Other options as identified by the Urban Renewal Commission.

BACKGROUND:
During the Feburary 11, 2025 URC meeting staff was asked to provide additional information related to: 1. closing the district; 2. if the district is closed, the process to reopen a new district; 3. a declaratory judgment; and 4. a validation suit.

1. Closing the district. If the governing body (City Commission) of a jurisdiction with an urban renewal agency decides that there no longer exists a need for an agency in the jurisdiction, the governing body shall provide, by ordinance, for a termination of the agency and transfer of the agency's facilities, files, and personnel to the jurisdiction. ORS 457.010 defines

governing body as, in the case of a city, the common council or other legislative body. The tax increment collected but not spent must be returned to the assessor for distribution to the overlapping districts. If the district is closed and the urban renewal agency is not active, the agency may transfer the properties to the City. (Please see page 95 of the Association of Oregon Redevelopment Agencies Best Practices for Urban Renewal Agencies in Oregon)

2. Process to reopen a new district. Please see pages 21-28 of the Association of Oregon Redevelopment Agencies Best Practices for Urban Renewal Agencies regarding the creation of an urban renewal agency and pages 29 -57 for the specific information required for a the new urban renewal plan that would be created.

3. and 4. Please see the memorandum: Legal Options to Clarify Section 59 of the Oregon City Charter, dated March 12, 2025 from Mr. Kabeiseman addressing the declaratory judgment and validation lawsuit processes.

Please find attached to this staff report:
1. Association of Oregon Redevelopment Agencies Best Practices for Urban Renewal Agencies in Oregon, dated January 2014
2. Legal Options to Clarify Section 59 of the Oregon City Charter from Mr. Kabeiseman, dated March 12, 2025
3. LOC FAQ on Urban Renewal, dated April 2018
4. Tax Increment Financing and Urban Renewal, by Elaine Howard, dated July 2015
5. ORS Chapter 457 Urban Renewal
6. Email comments and attachments from Mr. Nicita
7. February 11, 2025 Urban Renewal Commission meeting staff report and attachments

OPTIONS:

1. Provide direction to staff on how to proceed.

BUDGET IMPACT:

Amount $
Fiscal Year(s):
Funding Source(s):

BEST PRACTICES

FOR URBAN RENEWAL AGENCIES IN OREGON

January 2014

Association of
Oregon
Redevelopment Agencies

ABOUT THE ASSOCIATION OF OREGON REDEVELOPMENT AGENCIES (AORA)

The Association of Oregon Redevelopment Agencies (AORA), established in 1987, represents established urban renewal agencies. Urban renewal agencies may be initiated by cities or counties, and their boards can be comprised of the municipal governing body, a housing authority, or members may be appointed by the governing body.

Leadership of AORA is vested in a board of three officers that includes a President, Vice-President, and Secretary/Treasurer. The Executive Committee includes, in addition, two elected directors at-large and the immediate past President also serves.

AORA holds at least two general membership meetings each year, one of which is at the League of Oregon Cities' annual conference. Other meetings are convened on an as-needed basis.

AORA is a resource for urban renewal agencies and public and private redevelopment professionals that:

- Promotes urban renewal 'best practices' among the state's urban renewal agencies;
- Provides a forum for discussion with professional colleagues throughout the state on issues pertinent to redevelopment;
- Provides education and information to the Legislature and state agencies on issues related to redevelopment and tax increment financing;
- Evaluates and coordinates urban renewal agency responses to litigation on urban renewal and redevelopment; and
- Assists the League of Oregon Cities.

2012 - 2014 AORA EXECUTIVE COMMITTEE

Kate Porsche	President	kate.porsche@cityofalbany.net
Kristin Retherford	Vice President	retherford@ci.wilsonville.or.us
Charlie Mitchell	Secretary/Treasurer	cmitchell@cityoflagrande.org
Brett Estes	Director-at-large	bestes@astoria.or.us
Barbara Cartmill	Past President	barbc@co.clackamas.or.us

Association of
Oregon
Redevelopment Agencies

Association of Oregon Redevelopment Agencies

P.O. Box 928
Salem, OR 97308
(503) 588-6550 or
1-800-452-0338
Fax: (503) 399-4863
www.orurbanrenewal.org

OFFICERS

PRESIDENT
Kate Porsche, Economic Development & Urban Renewal Manager
City of Albany

VICE-PRESIDENT
Kristin Retherford, Economic Development Manager
City of Wilsonville

SECRETARY/TREASURER
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AT LARGE
Brett Estes,
Community Development Director
City of Astoria

PAST PRESIDENT
Barbara Cartmill, Deputy Director
Clackamas County
Dept. of Transportation and Development

LOC COORDINATOR
Chris Fick,
Intergovernmental Relations Associate
cfick@orcities.org
503-540-6585

Dear Urban Renewal Practitioner,

The Best Practices document before you is designed to be an easy-to-navigate, consolidated reference about urban renewal in Oregon. Whether you are considering a new district for your community, or if you are a seasoned practitioner, this document provides valuable information related to all aspects of urban renewal.

The name of the document was chosen to represent what it truly is—a sharing of best practices related to urban renewal in Oregon. From a background on how urban renewal works, to the procedural steps and requirements of districts, the document contains great information. Throughout the manual, you will find best-practice tips from experienced practitioners including local district managers and consultants as well as urban renewal attorneys and bond counsel (of course it is always recommended to check with your consultant or attorney when navigating new territory in urban renewal).

A letter from the Special Districts Association of Oregon and Oregon School Boards Association—two groups directly impacted by the use of urban renewal--has been included in the appendix. Their letter and thoughts give great insight into the concerns and tension spots surrounding urban renewal, but also provide recommendations for how communities can work to better partner with taxing districts to create successful urban renewal districts supported by all.

The document represents the energy of a great group of people committed to making urban renewal a better tool for redevelopment and economic development in Oregon.

We hope you find this to be a useful reference in your urban renewal work, and that these best practices help to keep the tool of urban renewal strong in Oregon.

Kate Porsche
AORA President

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1. Introduction and Overview

CHAPTER CONTENTS

This chapter contains the following sections:

1.1 Introduction

1.2 How to use this document

1.1 INTRODUCTION

The Association of Oregon Redevelopment Agencies represents urban renewal agencies throughout the state of Oregon. A major part of AORA's mission is to provide guidance and information to urban renewal agencies in the planning, administration, and implementation of their urban renewal programs. To fulfill part of its mission, AORA has partnered with several consultants that have served Oregon's redevelopment agencies and its parent city and county entities, as well as with similar organizations in other states to review the *Urban Renewal Administrative Guidelines and Procedures* (2001) and update the document.

This document and the best practices tips contained herein were reviewed and discussed with the AORA Board, the AORA Advisory Committee, and experienced urban renewal bond counsel who volunteered to assist the AORA board. This urban renewal manual addresses issues that commonly arise in the practice of urban redevelopment within the state of Oregon. The best practices tips will provide agencies and practitioners with guidance based on over 250 combined years of consultants' experience with urban redevelopment.

The online version of this document is intended to be a living document and will be reviewed and revised as appropriate. AORA welcomes the comments and suggestions of urban renewal agencies at any time.

DISCLAIMER

The information in the *Best Practices for Urban Renewal Agencies in Oregon* is not intended to be legal advice and should not be relied upon by the user as a substitute for specific legal or other expert opinions. All users are responsible for determining the applicability of these materials for their particular issue.

Acknowledgements

REVIEW COMMITTEE

Barbara Cartmill,
Clackamas County (President)

Jim Hendryx,
City of Sherwood
(sub-committee member)

Tom Nelson
City of Sherwood
(at-large position and
sub-committee member)

Kate Porsche,
City of Albany (Vice President)

Heather Richards,
City of Redmond
(Secretary/Treasurer)

Doug Rux
City of Salem
(sub-committee member)

Jeff Tashman,
Tashman Johnson LLC
(sub-committee member)

CONSULTING TEAM

Abe Farkas, ECONorthwest

Elaine Howard,
Elaine Howard Consulting, LLC

Jeannette Launer, Attorney

Andy Parks, GEL Oregon, Inc.

Nick Popenuk, ECONorthwest

Chris Zahas,
Leland Consulting Group

Emily Picha, ECONorthwest

2013 AORA INTERN

Jon Chavers

FINAL EDITING

Leslie Vanden Bos

1.2 HOW TO USE THE DOCUMENT

This document provides an update and expansion to a previous AORA publication, *Urban Renewal Administrative Guidelines and Procedures* (2001). AORA's goal for this document is to provide Oregon's cities and counties with an easy-to-navigate, consolidated reference about the following information:

- Requirements for urban renewal in Oregon
- Background on how urban renewal works and its procedural steps
- Best practices for urban renewal topics from practitioners who have been working in Oregon for many years

The document is organized by major topic. For each topic, there is an introduction, the statutory provisions that pertain to the topic, a discussion, and best practices tips. Throughout the document there are sidebars to assist the reader or to provide examples from communities around the state.

The online version of this document will provide updated content on a regular basis, and this PDF version will be reviewed periodically to add updated information and note any changes to the law in Oregon.

The online document can be found at *www.orurbanrenewal.org*.

2. Preliminary Feasibility Studies

Feasibility studies are used to evaluate the potential political and economic success of an urban renewal area (URA). They typically entail less detail than an urban renewal plan and report and allow a jurisdiction to take a relatively inexpensive look at the benefits and constraints of a proposed URA. There are no statutory requirements for a feasibility study.

Feasibility studies provide valuable information about the potential success of an URA and are usually completed prior to writing an urban renewal plan. Exceptions to this may include, but are not limited to, response to an opportunity that has certain time constraints that would not allow for completion of an urban renewal feasibility study.

CHAPTER CONTENTS

This chapter contains the following sections:

2.1 Public involvement

2.2 Area boundary

2.3 Blight

2.4 Preliminary projects and programs

2.5 Comprehensive plan review

2.6 Financial analysis

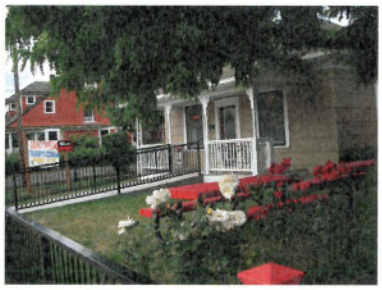
2.7 Impacts on taxes imposed by overlapping taxing districts

2.8 Gaps and issues

2.1 PUBLIC INVOLVEMENT

A. Background

Feasibility studies can either be an internal technical study to determine if tax increment financing (TIF) would be an effective tool or they can be a more fully vetted study that incorporates input from stakeholders. Some jurisdictions prefer to examine the technical aspects of urban renewal before including stakeholder input, as they may decide not to proceed with an urban renewal plan depending on the outcome of the initial technical study.



In 2010 and 2011, the Hood River City Council developed the Hood River Heights Business District Urban Renewal Plan with cooperative input from the Hood River Heights Business Association (HRHBA). During the feasibility stage, the HRHBA met monthly in open public meetings to review the boundary, establish goals and objectives, and establish and prioritize projects. Once the feasibility study was completed, the HRHBA reviewed the components of the proposed urban renewal plan and became an advocacy group for the preparation of the urban renewal plan, which resulted in a widely supported urban renewal plan.

B. Statutory Provisions

ORS 457.085(1) requires public involvement in all stages of development of an urban renewal plan.

C. Discussion

Different types of public involvement include meetings with the jurisdiction's staff and elected/appointed officials (a technical advisory committee), business district participants, residents, and taxing jurisdictions (a community advisory committee).

The technical advisory committee can ensure that projects are consistent with the jurisdiction's plans and can provide valuable information about the cost of projects. They can also analyze a project in the context of other jurisdictional needs and look at the impact of TIF on the overall city or county budget.

The community advisory committee can provide important input on the viability of projects and the willingness of the taxing jurisdictions to support the effort.

For other ideas, refer to **Section 4.1 on Public Involvement.**

D. Best Practice Tips

Stakeholder participation will assist a locality in adopting an urban renewal plan that has been fully vetted with both public officials and community stakeholders. The scope of the feasibility study should determine the amount of stakeholder involvement.

2.2 AREA BOUNDARY

A. Background

An urban renewal feasibility study must be predicated on specific boundaries and, if desired, specific alternative boundaries.

B. Statutory Provisions

ORS 457.420 limits the amount of acreage and assessed value that may be in urban renewal for cities with a population of more than 50,000 (15%) and less than 50,000 (25%). The area must also be blighted in accordance with ORS 457.010.

C. Discussion

Area boundaries are meant to include the entire blighted area where the jurisdiction intends to undertake its projects and programs. For example, if a jurisdiction is considering a commercial district in the downtown, it makes sense to include all of the commercially-zoned properties in that district. There are a few special circumstances to consider when establishing boundaries:

- ***Cherry stems*:** There may be development opportunities or blighting conditions that are not directly adjacent to the area being studied, but which have a direct relationship to the main area. Those areas can be added to the study area through a "cherry stem," a small section that connects one area to the other.
- ***Donuts*:** There may be an area within the potential boundary of an URA that is not included in the URA. This may be because it is a different land use, no projects are planned in that area, or because it may not relate to the URA in some other way. It is acceptable to establish a boundary and exclude that area, making a "donut."
- ***Non-contiguous areas:*** If a jurisdiction is considering multiple areas in one urban renewal boundary that are not tied together by area, there should be a direct functional or planning relationship between the two areas.

Jurisdictions sometimes study the possibility of adding more acreage to an URA than the specific area where projects will be considered. This is done because the larger area typically benefits from the improvements and can use the overall growth to help establish the URA.

D. Best Practices Tips

The most logical boundary encompasses the area that is blighted and will benefit from the use of tax increment funding for projects and programs within the area. Larger URAs should be carefully reviewed to avoid controversy in a later stage of plan development.

A boundary including non-contiguous areas should be established only after legal counsel review and approval. A cherry stem is the most conservative method to address this situation and should be the first method explored.

2.3 BLIGHT

A. Background

Blighting conditions must be present in an URA. However, not every parcel in an URA has to be blighted. Blighting conditions are documented through an existing conditions analysis.

B. Statutory Provisions

ORS 457.010(1) defines blight.

ORS 457.085(3)(a) states the requirements of an urban renewal report that identifies blight.

C. Discussion

The existing conditions analysis includes data on:

- Land use
- Zoning
- Comprehensive plan designations
- Platting (if pertinent)
- The conditions of the utilities in the area, including water, sewer, and wastewater systems
- Conditions of the transportation system
- Economic analysis, including an investment to land ratio analysis
- An analysis of the social conditions of the area

If a master plan or capital improvement plan exists for the utilities, it can be analyzed for projects identified for the study area. This analysis should include a cross-check by the jurisdiction's engineer for projects that have been completed or are going to be added to the master plan.

Improvement to land ratio values are determined by analyzing the county assessor's data on properties within the area and are used to demonstrate underdevelopment in an area.

Blighting indications include deficiencies in the jurisdiction's utility and transportation systems and any issues in the present platting of the properties within the area. This is the same information that is required in the preparation of a report that accompanies an urban renewal plan.

D. Best Practices Tips

The URA must meet at least one condition of blight identified in the statute .

2.4 PRELIMINARY PROJECTS AND PROGRAMS

A. Background

Projects and programs are meant to address the blighting conditions of the area and should help catalyze future development in the area.

B. Statutory Provisions

There are no statutory requirements for the identification of projects and programs at the feasibility study phase. However, the projects and programs identified for an urban renewal plan ultimately need to comply with ORS 457.

C. Discussion

Projects are ideally identified and prioritized based on their maximum effect in curing blight and encouraging the private development that will provide the increment necessary to pay the urban renewal plan debt. Prioritization must also be flexible enough to react to opportunities, such as providing "match" for grant programs or responding to development opportunities as they arise. Local preferences will also influence project choices.

FORT GEORGE BREWERY REMODEL

Remodeled in 2009, the Fort George Brewery has become a major attraction in Astoria. The project was funded through a variety of loans and grants, some of which were sourced through urban renewal.

Before

After

STOREFRONT IMPROVEMENT

Coos Bay has a façade improvement program that has successfully revitalized its downtown area.

STREET INFRASTRUCTURE

The Columbia Gateway URA in The Dalles provided redevelopment financing to assist in the redevelopment of the eastern entrance to the city's downtown, pictured here.

Projected costs for projects should come from the city engineer and/or master plans or capital improvement plans for infrastructure projects and other adopted plans on the study area. Costs may also come from input from consultants and/or other jurisdictions for projects and programs such as storefront grant and loan programs and redevelopment assistance. At the feasibility stage of review, the costs do not need to be detailed, but a general idea of the magnitude of costs associated with the projects will enable the locality to determine the trends that are needed to address blight in the area.

The types of projects and programs typically used in urban renewal are:

- Storefront grant and loan programs
- Redevelopment grant and loan programs
- Infrastructure projects, including streetscape, water, sewer, wastewater, and undergrounding utilities
- Developing parking to support downtown businesses
- Development of public buildings
- Assistance to private developers and owners to rehabilitate or redevelop property

D. Best Practices Tips

Projects should be identified that will address the blighting conditions in the area and help catalyze development in the area, thereby increasing property values.

DEVELOP PARKING TO SUPPORT DOWNTOWN BUSINESSES

Lake Oswego worked under a redevelopment agreement with a private developer for an anchor project on the south end of the retail district in downtown Lake Oswego. The City of Lake Oswego paid for the construction of a structured parking facility that was integral to the development of the surrounding retail and office space. The city owns the parking facility, which is adjacent to the highly successful Millennium Park.

2.5 COMPREHENSIVE PLAN REVIEW

A. Background

A succinct review of the comprehensive plan and other plans and reports enables the jurisdiction to ensure that a future urban renewal plan will conform to the comprehensive plan and other local objectives.

B. Statutory Provisions

There are no statutory requirements for comprehensive plan review at the feasibility study phase. However, ORS 457.085 (1)(d) and ORS 457.095(3) address the need for an urban renewal plan to be in conformance with the comprehensive plan.

C. Discussion

A review of the comprehensive plan and other adopted plans does not require the full analysis that is required in the preparation of an urban renewal plan, but it can help to ensure that these issues will not interfere with the adoption of a plan. For example, if a jurisdiction would like to see a mixed-use development on a site that is presently designated as industrial land and does not allow for mixed-use development, that issue must be resolved before the adoption of an urban renewal plan.

D. Best Practices Tips

A comprehensive plan should be reviewed in a feasibility study to identify any issues that may need to be resolved before preparing an urban renewal plan.

2.6 FINANCIAL ANALYSIS

A. Background

An initial assessment of the financial feasibility of a plan can determine if the anticipated revenue sources, including tax increment revenues, will be sufficient to cover the anticipated project costs. It is beneficial for estimates of tax increment revenues to be based on an informed judgment of the types and levels of development likely to occur within the URA.

B. Statutory Provisions

There are no statutory requirements for financial review at the feasibility study phase. However, ORS 457.085(3)(f) and (g) require financial analysis in an urban renewal plan.

C. Discussion

It is not always necessary (or ideal) to focus on one specific forecast of TIF revenues. Often, jurisdictions model multiple scenarios, presenting a range of forecasts and showing the TIF revenue potential under various assumptions.

At the feasibility study stage, detailed cost estimates for specific projects may be unknown. Jurisdictions often find that it is helpful for the emphasis at this stage of analysis to be on understanding the order of magnitude of the financial resources available, and whether or not those revenues seem reasonable to cover estimated project costs in a reasonable time period. It is often useful to look at long-term historical trends as a starting place for future growth assumptions, then adjust these assumptions to account for known taxable redevelopment that is planned or in progress, current market conditions, and anticipated urban renewal projects that would stimulate additional redevelopment in the future.

It is valuable to consider the timing of revenues and expenditures. Timing can be particularly important when establishing the frozen base, and determining the first year to receive TIF. The frozen base is the total assessed value of the URA and is based on the most recent year of assessor's data. The first year to receive TIF is based on the first year that tax rolls are set after adoption of the plan. For more on how the timing of plan adoption can affect early year TIF revenues, see ***Section 4.9 Finance.***

Other timing issues can arise when trying to finance projects early in the life of an URA. Many lenders look at historical tax collections when determining the terms of available financing. It may be difficult to obtain financing for expensive projects in the early years of an URA, even if preliminary projections show rapidly growing TIF revenues.

It is important to remember that TIF revenues do not equal the dollars available for projects. TIF revenues are used to pay debt service on debt that pays for project costs. Thus, the financial feasibility analysis needs to make general assumptions on the type of debt that will be incurred by the URA and the terms associated with that debt (for example, interest rates, coverage ratios, reserve requirements, issuance costs, and amortization period). At the feasibility stage it is not necessary to have all of these assumptions nailed down, but it may be helpful to check with financial advisors to ensure that the analysis is grounded in reasonable assumptions.

D. Best Practices Tips

A jurisdiction should conduct a preliminary financial analysis to ensure that projected revenues are of an order of magnitude that is sufficient to cover its anticipated project costs. Forecasts of TIF revenues should be based on conservative assumptions of growth in assessed value.

A jurisdiction should account for inflation in its financial feasibility analysis. It may be a decade or more before some urban renewal projects are funded. Even with conservative inflation assumptions of 3% per year, project costs can increase by more than 33% in a decade. A jurisdiction should cite the source of its inflation assumptions (e.g., consumer price index, construction cost indices, etc.).

Also, a jurisdiction should include some funding for administrative costs throughout the life of the urban renewal plan.

If, at the feasibility stage, a jurisdiction wants to recover the costs of conducting the feasibility study and developing the plan itself, it must identify those activities as a project of the plan.

HELPFUL TIPS

When evaluating the financial feasibility of an URA, consider the following:

Inflation: Always make sure to have realistic forecasts for inflation. URAs often wait years (if not decades) before funding certain projects. Inflation can significantly increase project costs over this time. Including inflation in your project cost estimates is necessary to ensure the maximum indebtedness is sufficient to cover all project costs.

Administrative costs: While it is natural to focus on the costs for specific capital projects, make sure that administrative costs are also included. URAs typically incur some level of ongoing administrative costs.

Reimbursement of preliminary expenditures: Prior to adopting an urban renewal plan, a jurisdiction may incur costs writing, evaluating, and adopting the plan. These costs require an upfront source of funding (typically a jurisdiction's general fund), but can be reimbursed by an URA, when resources are available. Jurisdictions that wish to have these costs reimbursed by the urban renewal area need to list these activities as a project in the plan.

2.7 IMPACTS ON TAXES IMPOSED BY OVERLAPPING TAXING DISTRICTS

A. Background

Taxing districts are understandably concerned about the impact of urban renewal on their future tax revenues. During the operation of an urban renewal plan, the taxing districts will forego any increase in property taxes within the URA. The reason for pursuing urban renewal is to increase the value of properties in the URA, thereby increasing the property tax revenues. At the termination of an URA, taxing districts will receive the benefit of the use of urban renewal if the URA was successful at increasing the taxable assessed value.

B. Statutory Provisions

There are no statutory provisions for analyzing the impacts on taxing jurisdictions in a feasibility study. However, ORS 457.085(3)(h) requires the analysis of impacts on taxing jurisdictions in an urban renewal plan.

C. Discussion

Financial analysis of the revenues foregone by overlapping taxing districts is required in the report accompanying an urban renewal plan and it can be helpful to conduct this analysis during the preliminary feasibility study. The analysis can show the impact to other jurisdictions without new development, using the average annual appreciation rate in the area, and the impact of new development using projections developed within the feasibility study. A key factor to consider is whether the projected new development would occur regardless of urban renewal, and, therefore, whether those taxes should be considered as foregone or whether the taxing district would not have seen that growth without urban renewal.

It can be beneficial to involve taxing districts in the information sharing about a potential new URA. The jurisdiction may benefit from the participation of special districts in the collaborative effort to design projects and programs to benefit the URA.

Analyzing the impact to taxing districts entails estimating the taxes that may be foregone by overlapping taxing districts from the division of taxes for the urban renewal plan. Again, these would be the taxes that would have been generated by growth, with or without the urban renewal plan. At the feasibility stage, estimating the order of magnitude of impacts is typically all that is necessary.

This will help the governing body understand how an urban renewal plan would affect overlapping taxing districts before it proceeds with creating a plan.

To determine the impact to other taxing districts, a jurisdiction must first estimate what the future assessed value of the URA would be without urban renewal. Then the future assessed value without urban renewal must be multiplied by the permanent tax rates for all overlapping taxing districts.[1] If the URA is anticipated to experience revenue sharing, then the revenue sharing amount is added to calculate the total impact to taxing districts. It may also be helpful to calculate what the positive impact to taxing districts will be in the first year that the URA is scheduled to end. This will provide affected taxing districts with an idea of the revenue they would give up in the early years compared to the benefit they would receive in later years. **Table 1** shows an example of a table summarizing the impacts of an existing URA.

Table 1. Summary of impacts of an existing URA

Rate Type	Tax Rate	Included in TIF Consolidated Rate?	Incremental Value	Annual Foregone Revenue
Permanent	$4.0000	Yes	$ 10,000,000	$ 40,000
Local Option Levy	$1.0000	No	$ 10,000,000	$ -
General Obligation Bond				
Approved prior to Oct. 2001	$0.7500	Yes	$ 10,000,000	$ 7,500
Approved after Oct. 2001	$1.2500	No	$ 10,000,000	$ -
Total	**$7.0000**		**$ 10,000,000**	**$ 47,500**

HB2632 was adopted by the Oregon legislature in 2013. It provides that standard rate plans will not receive division of taxes from local option levies approved after January 1, 2013.

D. Best Practices Tips

An analysis of the impacts on taxing jurisdictions should be an integral component of a feasibility study and should be reviewed with the taxing jurisdictions if the agency intends to pursue development of an urban renewal plan.

Taxing districts should be involved in the information sharing about a potential new URA and should participate in the collaborative effort on designing projects and programs that will benefit the URA. Although urban renewal does not have a direct impact on local school district funding, it is important for school districts to also be included in the information sharing so that all interested parties understand the extent of the potential impacts.

1. Local option levies are excluded from the consolidated tax rate for new URAs, as are general obligation bonds approved after 2001. Even if there are general obligation (GO) bonds approved prior to 2001, a new URA would affect the bond rate, but not the amount of the levy collected, and therefore would have no fiscal impact on a jurisdiction's GO bonds collection.

IMPACTS ON SCHOOL DISTRICTS

When considering the impact on taxes imposed by overlapping taxing districts, it should be noted that school districts are affected differently than other types of taxing districts.

Property taxes were once the primary funding source for K-12 schools, and tax rates varied by district. Today, the State of Oregon "equalizes" school funding, using a formula that takes into account property tax revenue generated at the school district level and revenue from the State's coffers generated by the statewide income tax, Oregon Lottery, and intergovernmental revenues.

Allocation of State revenues to local school districts comes in the form of "general purpose grants." The primary driver of the State allocation is the number of students in each district. This means that local property taxes generated by a school district have no direct impact on school funding in that district. Thus, any impacts that an URA might have on local school district property tax revenues would have no direct impact on school funding in that district.

2.8 GAPS AND ISSUES

A. Background

A feasibility study is used to assess the preliminary viability of using urban renewal and TIF for redevelopment. It will identify the gaps and issues that could arise if the jurisdiction determines that it would like to proceed with the preparation of an urban renewal plan. These may be technical or political issues.

B. Statutory Provisions

There are no specific statutory provisions for feasibility studies.

C. Discussion

The types of gaps and issues are generally either technical or political in nature. Technical issues often include:

- ***More project expenditures than projected TIF revenue.*** Once preliminary URA boundaries are identified many jurisdictions will fold extensive projects outlined in their capital improvement plans and transportation systems plans into consideration for TIF assistance. Those projects, in addition to projects and programs targeted to directly promote redevelopment of the URA, such as rehabilitation loan programs, site assembly, and storefront improvements, can result in a very long list. If the total estimated cost of these projects exceeds the financial projections for tax increment funds, the projects will need to be prioritized and reduced to a level that can be reasonably funded through TIF. If the projects cannot be reduced, the jurisdiction will need to look for other sources of funding that can potentially be leveraged with TIF.
- ***Lack of funding in the early years.*** Most URAs have very small amounts of TIF cash flow in the early years, which limits their bonding capacity. This sometimes means that a jurisdiction may need to defer larger scale projects that rely on TIF for a period of time. A jurisdiction that chooses to initiate more projects and programs earlier on can borrow from sources other than the bond market, though some of these sources will have restrictions on how their monies can be uses. Alternative sources can include: a jurisdiction's general fund; GO Bond of the jurisdiction; enterprise funds from system development charges (SDCs) from transportation, public works, parks, or other departments; private lenders; and tax anticipation notes based on TIF projections from the URA. All of these can be repaid by future TIF cash flow or by issuing a TIF bond once that becomes viable.

- ***Revenue sharing within the taxing districts impacts time period of the district.*** Revenue sharing with taxing districts (see Section 4.9) needs to be planned for and URAs should accommodate projected changes in TIF revenue (adjusting project goals and/or securing non-TIF resources to complete projects). The options are to lengthen the estimates for the time frame of the URA or reduce the amount of money to be used.
- ***Comprehensive plan needs to be updated to conform with the present desires of the jurisdiction.*** Redevelopment often requires changes to the underlying zoning and comprehensive plan designations. The adoption of an urban renewal plan requires that the plan be in conformance with the comprehensive plan. Therefore, there may be instances where the comprehensive plan should be updated before an urban renewal plan can be adopted.
- ***Compression impacts financial feasibility.*** The financial feasibility of a plan needs to take into account the impact of tax compression (see Section 4.9) in the analysis, understanding that the analysis is an estimate and cannot account for unexpected changes in economic dynamics.

The major political issues identified are:

- ***Impacts on taxing jurisdictions, including the jurisdiction pursuing the urban renewal plan.*** Other taxing districts will forego revenues upon the adoption of an urban renewal plan. There are many instances where the taxing jurisdictions are aware of that impact and are supportive of the efforts of the jurisdiction to implement urban renewal. They understand the overall impact urban renewal can have on the community and feel that the overall benefit is positive. However, there are also taxing districts who feel they cannot forego tax revenues. The jurisdiction must decide how to balance the needs of the taxing districts with the needs of the community.
- ***Lack of support for the proposed redevelopment.*** The jurisdiction may be proposing redevelopment in an area where there is not support for the redevelopment. This is an issue that is best resolved by the jurisdiction prior to proceeding with the adoption of an urban renewal plan.
- ***Need to go to a public vote.*** Some jurisdictions require that voters approve new urban renewal plans or substantial amendments to existing plans. Such approvals will add time to the district formation process. There may also be extra work required to effectively and legally communicate the objectives of urban renewal to voters.
- ***Changing governing body before feasibility study adoption.*** If the urban renewal feasibility process spans an election, there is a risk that the composition of the governing body and support for urban renewal could change before the feasibility analysis is complete.

D. Best Practices Tips

It is helpful for governmental entities to perform feasibility studies that identify issues and gaps, prior to creating an urban renewal agency.

3. Creating an Urban Renewal Agency

Urban renewal agencies are separate and unique entities that may be activated by municipal entities (cities or counties) under the authority of Oregon Revised Statutes (ORS 457.035).

As a separate entity, the elected municipal governing board must establish the governing structure of the agency, including appointing a board. This decision may be influenced by a number of factors discussed in this section, as well as other factors such as the various projects and programs that are considered for inclusion in the URA's plan.

CHAPTER CONTENTS

This chapter contains the following sections:

3.1 Establishing the Board

3.2 Advisory Committees

3.1 ESTABLISHING THE BOARD

A. Background

Urban renewal agencies are governed by a body that is separate and distinct from the municipality that activates the URA. For simplicity in this document the URA body is called a "board." The municipal entity that creates the URA is responsible for determining the structure of the board, as provided by ORS. There are three potential structures for the urban renewal agency board:

- Governing body itself
- Separate group—appointed by the municipal governing body
- Housing authority

Phoenix urban renewal agency at work reviewing a loan application.

B. Statutory Provisions

ORS 457.045 provides that a municipality's governing body may choose to exercise the powers of an urban renewal agency by:

(1) the municipality's housing authority,

(2) a separate board or commission of no fewer than three members, or

(3) by the governing body itself, acting as a governing body separate from the municipality they were elected to represent.

A housing authority functioning as an urban renewal agency must appoint an advisory board, but otherwise, advisory committees are not required.

C. Discussion

Historically, in Oregon, elected municipal officials have generally desired substantial control over urban renewal decisions. Therefore, most urban renewal agency boards consist of the members of the city council or county commission. Of those urban renewal agencies where the municipality's governing board created boards consisting of non-elected officials, some require that at least one member of the board be an elected municipal official.

The governing bodies of municipalities just starting an urban renewal program can sometimes find it difficult to decide whether to establish a separate board or retain direct authority. There are examples where municipalities have created a separate board and later decided to return authority to the elected governing body. The agency board may also decide whether or not to designate one or more advisory committees, and if so, the board also determines what functions those committee(s) should serve.

So what is the best governance structure and why? Although there are no specific authoritative sources that address best practices for local government board governance, guidance can be found in *Best Practices: Nonprofit Corporate Governance* and the *Five Habits of High Performance Boards*. The key issues raised by the authors of these documents are as follows:

Key considerations included in both documents directly relevant to the creation of an urban renewal agency:

- The relationship between the board and staff
- Duty of loyalty, distinct entity

1. Relationship between board and staff

The success of the URA, just as is the case with the municipality itself, is very much dependent upon the staff and the support they receive from the urban renewal agency board. Additionally, what often undermines the success of an organization are actual or perceived conflicts of interest.

Practically speaking, there are very few urban renewal agencies that have the staff resources to operate independently. Although the urban renewal agency may have staff dedicated to urban renewal projects and activities, the agency is generally supported by departments in the rest of the municipal organization, such as finance, planning, public works, and city or county management. This reality makes it very challenging for staff should there be two separate and distinct boards.

2. Duty of loyalty

The duty of loyalty to a distinct entity may be addressed through the recognition that the urban renewal agency is a "component unit" of its founding municipality. In other words, loyalty belongs to the parent entity, i.e. the municipality that created the urban renewal agency.

Urban renewal functions and activities are generally specific and limited. The urban renewal agency's authority is controlled not only by state law but also by policy documents, e.g. the urban renewal plan, that specify, among other items, the projects and activities to be undertaken, the estimated cost of projects and activities, the maximum amount of funding, and the estimated period of time to accomplish the plan.

Each urban renewal plan is different, with various projects and activities of the urban renewal agency supporting the overall vision. Therefore, each urban renewal agency has different leadership and governing requirements, and these may vary from time to time during the life and implementation of an urban renewal plan.

In Astoria, the Agency is the the City Council.

3. Municipal governing board vs. appointed board configuration

There are advantages and disadvantages to each of the two options that are currently used in Oregon (no housing authorities currently exercise urban renewal powers).

Table 2. Overview of Board Structure

	ELECTED CITY OR COUNTY OFFICIALS	APPOINTED BOARD
Direct oversight of elected officials	Retained	Compromised
Perception of decision being final	Retained	Perception may be that decisions may be challenged
Public attendance at meetings	Improved attendance (other business)	Attendance may be reduced
Representation of board	Limited to elected officials	Board members with unique qualifications can be recruited
Accountability	Accountable to voters	Accountable to elected body
Stability	Potential to be less stable (subject to change with each election)	Generally more stable
Sufficient Attention	Heavy demands of the primary entity may reduce attention—involvement with other related issues may offset	Generally more direct attention

4. City council or county commission as agency board

The advantages of designating the city council, city commission, or county commission as the urban renewal agency board include:

- Direct oversight is retained by the municipality's elected officials. Given the scope and importance of decisions regarding urban renewal in most communities, this degree of oversight is important.
- Decisions will be considered final, as opposed to the decisions of a separate board, which might be appealed to the governing body. (However, the decisions of a separate urban renewal agency board in undertaking an adopted urban renewal plan are not, strictly speaking, appealable to the municipal's governing body.)
- The urban renewal agency's board meetings may be better attended if they are held concurrently with council or commission meetings.

The disadvantages of this form of governance include:

- Representation on the urban renewal agency board is limited to the elected municipal officials. Opportunities for other qualified or interested citizens (e.g. real estate developers, lenders, and other experts) to directly participate in URA governance are eliminated.
- Board membership can be unstable, i.e., subject to change with each election, potentially resulting in a lack of continuity in urban renewal agency governance and decision-making. This instability is often mitigated by continuity among staff, legal representation, and advisors.
- Urban renewal agency decisions may, in part, be based on political agendas rather than sound development considerations.
- Urban renewal agency issues may not receive sufficient attention from board members who often have heavy demands placed on them in their roles as city council or county commission members. This can be mitigated by the use of advisory committees (ad-hoc or otherwise).
- Actual or perceived conflicts between the urban renewal agency and the municipality may exist, making it more difficult for these interests to be kept separate.
- The urban renewal agency board may not be as willing to advocate for their interests when they conflict with municipal interests.
- In some cases, there may be simple confusion as to which legal body has the authority to make a particular decision.

5. Separate agency board

The advantages of designating a separate urban renewal agency board include:

- The board's full attention can be given to urban renewal matters.
- The board may be more likely to represent the interests of the urban renewal agency in those circumstances where there may be conflicts with the municipality.
- The potential conflict of interest is limited as the urban renewal agency is a component unit of the parent municipality.
- Urban renewal agency decisions might be more likely to be made on the basis of sound development considerations.
- Board membership may include one or more elected officials in order to retain a measure of direct oversight by the municipal governing body.
- There may be other unintended consequences associated with appointing fewer than all elected officials to an advisory committee.

- Perception, real or not, that the appointed elected officials speak for the majority of the municipal governing board.
- Potential communication issues created by filtering information.
- Board membership may represent particular areas of expertise, interests in the community, and/or within the URA.

The disadvantages of this form of governance include:

- The municipal governing body may be unwilling to truly delegate authority to a separate board, and this may result in "second guessing" board decisions.
- The board is less accountable to the voters of the municipality.
- Board decisions may not be considered final by the public. They may be appealed to the governing body, causing delays or reversals of board decisions.
- In smaller organizations, where the same staff that performs city or county functions also performs urban renewal functions, the potential for conflicting direction increases.

6. Urban renewal boards in Oregon

In Oregon, a majority of urban renewal agencies are governed by the elected officials of the municipality by which it was created. Additionally, there are examples within the state of the elected body of the municipality changing the board composition to address changes in conditions within the community or the urban renewal plan.

Table 3. Elected boards vs. appointed boards

	ELECTED CITY OR COUNTY OFFICIALS	APPOINTED BOARD
Number of agencies	Retained	Compromised
Advisory boards	Retained	Perception may be that decisions may be challenged
Change in board composition	Improved attendance – other business	Attendance may be reduced

D. Best Practices Tips

Elected officials of the municipal governing board are encouraged to give serious consideration to the issues presented above. They should also consider public comments about the various options for board composition, given their specific plan, community, and other issues, prior to forming the urban renewal agency and/or making changes to an existing agency board.

If the municipal governing board chooses to appoint a "separate group," whether that group includes one or more elected municipal governing board members or not, the municipal governing board is encouraged to document desired board member profiles, roles and responsibilities for the board, its members, and the governing body.

3.2 ADVISORY COMMITTEES

A. Background

Any urban renewal agency board may appoint an advisory committee, although advisory committees are more frequently appointed by boards that consist of the municipal governing body. Advising committees can be either long-standing or ad-hoc to respond to specific issues.

B. Statutory Provisions

There are no statutory provisions for advisory committees.

C. Discussion

Appointing an advisory committee(s) can help mitigate some of the disadvantages of having the city council or county commission serve as the urban renewal agency board.

- Advisory committees can devote their full attention to urban renewal issues, and the urban renewal agency board, in many cases, can choose to heavily rely on their advice.
- Advisory committees can also broaden participation in urban renewal decisions and can represent varying interests and expertise in the community.
    - Municipalities should be aware that advisory committees may have a tendency to desire direct decision-making authority when it is not desired by the urban renewal agency board, which can lead to conflicts with the urban renewal agency board.
- The urban renewal agency board can also decide whether the committee is to advise on all urban renewal issues or only on certain types of issues.
- Ad-hoc committees may serve the urban renewal agency board best because they have a limited scope and time frame. This may serve to:
    - Increase the efficiency of an organization

- o Reduce potential conflicts in authority with elected boards
- o Increase ability to recruit experts for a given project or program
- o Expand the field of potential committee members due to reduced length of time commitment

- An urban renewal agency board can give consistent and substantial weight to advisory committee recommendations.
- Though the urban renewal agency board is not bound by advisory committee recommendations, if such recommendations are not given a prominent place in board decisions, the advisory committee will lose its effectiveness.
- Ad-hoc committees can be assigned to specific projects or programs.

Table 4. Ad-hoc committees vs. standing committees

	AD-HOC COMMITTEE	STANDING COMMITTEE
Dedicate full attention to agency activities	Yes	Yes
Broaden participation in agency activities	Yes	Yes
May desire direct decision authority	Less likely	More likely
Limited scope and timeline	Generally	Generally no
Increase efficiency of staff	Generally	Possibly, but less often
Reduce potential conflicts of authority with elected officials	Generally	Possibly, but less often
Increase potential to recruit experts	Yes	More so than elected bodies, less so than ad-hoc committee
Expanded pool of potential members due to reduced time commitment	Yes	More so than elected bodies, less so than ad-hoc committee

D. Best Practices Tips

If the board consists of the municipal governing board, ad-hoc committees may be effective to advise the municipal governing board on various projects and/or programs.

If jurisdictions decide to create continuing advisory committees, then these committees should have clear and defined parameters, and those parametershould include topics like: purpose, composition, term-limits, staffing, costs, etc.

4. Urban Renewal Plan

An urban renewal plan sets out the parameters of the actions to be undertaken in an URA by an urban renewal agency. It is important to consider all issues in preparation of an urban renewal plan, as implementing substantial amendments to an urban renewal plan is very time-consuming and expensive.

Urban renewal plans must be proposed by an urban renewal agency (ORS 457.085(2)). Therefore, if a jurisdiction is considering adopting an urban renewal plan, they must first establish an urban renewal agency.

The statutes require that an urban renewal agency shall provide for public involvement in all stages of the development of an urban renewal plan.

CHAPTER CONTENTS

This chapter contains the following sections:

4.1 Public involvement

4.2 Area boundary

4.3 Goals/objectives

4.4 Projects funded with TIF revenue

4.5 Comprehensive plan and economic development plan review

4.6 Procedural requirements for approval of a plan

4.7 Urban renewal report

4.8 Blight

4.9 Finance

URBAN RENEWAL PLAN COMPONENTS

1. A description of each urban renewal project to be undertaken.
2. An outline of the major project activities planned for the URA or areas.
3. A map and legal description of the URAs of the plan.
4. An explanation of how the plan relates to local objectives.
5. A discussion of the relevant objectives of the local comprehensive plan and other council - adopted related plans.
6. An indication (map and text) of proposed land uses, maximum densities, and building requirements for each URA.
7. Urban renewal plans no longer regulate land uses, and this section of the statute is obsolete, but has not been repealed. Therefore, the plan should consist of a reference to the jurisdiction's comprehensive plan and implementing ordinances.
8. A description of relocation methods for residents or businesses that must move because of urban renewal agency projects.
9. A description of property to be acquired by the urban renewal agency (if any) and how it will be disposed of (e.g., sale or lease), along with a schedule for acquisition and disposition.
10. If the plan calls for the use of TIF, the maximum amount of indebtedness to be issued or incurred.
11. A description of which types of changes to the plan are to be considered substantial amendments (See **Section 5.3 Substantial Amendments**). Duration provisions of urban renewal plans are not required by statute. Localities may want to impose durations, and if they do, they become another provision of the plan. If imposed, the plan should specify how those provisions might be amended, if at all. Typically, jurisdictions want URAs to be active for a period of 20 to 30 years, though it is not uncommon for an urban renewal agency to take longer than 30 years to repay the debt.
12. If the plan calls for the development of a public building (e.g., a fire station), an explanation of how the building serves or benefits the URA.

4.1 PUBLIC INVOLVEMENT

A. Background

Public involvement is a key component of all phases of urban renewal planning, from the inception of an URA to the ongoing administration of the urban renewal plan. Involvement needs range from including the public to including the specific affected local taxing jurisdictions. Adoption of an urban renewal plan goes much more smoothly when there is significant public support for the plan.

Some jurisdictions have included a public vote for establishing urban renewal agencies, approving urban renewal plans, and making substantial amendments as a component of their public involvement.

B. Statutory Provisions

- ORS 457.085(1) requires that "an urban renewal agency shall provide for public involvement in all stages of the development of an urban renewal plan."
- ORS 457.085(4) and ORS 457.085(5) require that new plans or substantial amendments must be presented to the planning commission of the jurisdiction and to the governing bodies of taxing districts affected by the plan.
- ORS 457.437 requires that a city urban renewal agency meet with the governing body of the county affected by the plan.
- ORS 457.095 and ORS 457.120 require that direct notice be sent (by a jurisdiction) to individuals or households within certain areas in addition to the normal notice provisions of a jurisdiction for a public hearing on a new plan or substantial amendments.
- ORS 457.460 requires that annual reports be prepared and published in the newspaper at least two times each year.
- ORS 457.095 requires published notice of adoption of an urban renewal plan.

The statutory requirements are for public involvement in all stages of the development of an urban renewal plan. The ranges of involvement are shown below.

The City of Beaverton met extensively with the general public, key stakeholders, and the affected taxing districts when it was creating its Downtown Urban Renewal Plan. During this public outreach, a key concern was the duration of the Plan. At first, there was a desire to have a hard stop date in the Plan for the last year to issue debt, but the community realized the potential danger of limiting their Plan from accomplishing all of the projects included in the Plan. After reviewing the detailed TIF estimates and projections of borrowing capacity, the Advisory Committee felt comfortable that the maximum indebtedness could be repaid in a 30-year timeline, which lessened the need to include a hard end date.

Ultimately, a compromise was reached, and the Plan includes a provision that calls for all affected taxing districts to reconvene in 20 years to review the history of the URA, evaluate the remaining projects, maximum indebtedness, and TIF projections, and make a recommendation to the URA Board as to whether the Plan should continue, or if amendments are needed to ensure that the URA repays all debt in a reasonable timeframe.

In 2010-2012, the Portland Development Commission worked with a diverse advisory committee to make recommendations for the amendment of the Interstate Corridor Urban Renewal Plan. Staff averaged 30 tweets per meeting for the monthly meetings from August 2009 to May 2010. Between 60-75 citizens came to each of the planning meetings, all of which were open for public testimony.

C. Discussion

The minimum required by statute: Two opportunities for general public review and input are required by statute: the urban renewal plan and accompanying report are forwarded to the planning commission prior to presenting it to the governing body (city council or county commission) (ORS 457.095). The planning commission meetings are open to the public. Therefore, the public has an opportunity for comment at this point in the preparation of a plan.

Approval of an urban renewal plan by the governing body is by non-emergency ordinance (ORS 457.095). In most localities, this means two readings of the ordinance. The first reading is a public hearing that has been noticed by mail to the public group required in ORS 457.120. The second reading does not typically include public testimony, but testimony can be accepted at the discretion of the governing body.

The urban renewal plan must also be sent to the governing body of all affected taxing jurisdictions. The urban renewal agency should consult and confer with the taxing jurisdictions prior to presenting the plan to the governing body for approval. (ORS 457.085)(5). In addition to sending the plan by mail, the urban renewal agency may also contact the taxing jurisdictions personally and may agree to present the plan to the taxing jurisdictions' boards. The urban renewal plan must be presented to the county, although they do not get a vote on its approval.

The jurisdiction must publish notice of the approval of an urban renewal plan within four days of adoption of the ordinace approving the plan.

Other options for review:

In 2010, the Philomath Downtown Association's input was the key force in the decision to amend the existing urban renewal plan to increase the acreage, designate new projects that would support the downtown business core, and increase the maximum indebtedness.

- Forming an advisory committee for the development of the urban renewal plan. The advisory committee can be a combination of residents, business owners, city or county staff, affected taxing jurisdictions, and/or elected officials. The committee can provide input on all key portions of an urban renewal plan.
- Holding one or more public hearings specifically to provide information on urban renewal and the proposed plan.
- Establishing a web presence by both posting the proposed plan and posting information about the opportunities for public input.
- Having one or more public open houses where the public is invited to participate actively in planning: through dot voting or other activities.
- Using social networking tools such as Twitter and Facebook to broadcast meetings and solicit feedback.
- Working with the local business organizations and districts to provide input on urban renewal decisions.
- Mailing to households within the URA to provide information or invite

them to public meetings.

Some communities require a public vote to establish an urban renewal agency, and some require a public vote to adopt an ordinance approving an urban renewal plan.

D. Best Practices Tips

The jurisdiction should create a public involvement plan suitable for local conditions prior to embarking on the urban renewal creation process. The public involvement plan should be reviewed periodically to ensure it is meeting the needs of the community.

Community input should be considered when determining the targeted duration of an urban renewal plan. However, best practice is to let the maximum indebtedness serve as the limiting factor on plan duration rather than including a provision in the plan that defines a final date for either issuing or repaying debt. The financial analysis that accompanies an urban renewal plan (see Section 4.8) will show the likely timeline necessary to incur and repay the maximum indebtedness of the plan.

4.2 AREA BOUNDARY

A. Background

An urban renewal plan must be predicated on specific boundaries.

B. Statutory Provisions

ORS 457.420 limits the amount of acreage and assessed value that may be in urban renewal areas for cities with a population of more than 50,000 (15%) and less than 50,000 (25%). The URA must also be blighted in accordance with ORS 457.010.

C. Discussion

Area boundaries are meant to include the entire blighted area where the jurisdiction intends to undertake its projects and programs. For example, if a jurisdiction is considering a commercial district in the downtown, it makes sense to include all of the commercially-zoned properties in that district. There are a few special circumstances to consider when establishing boundaries:

- ***Cherry stems:*** There may be development opportunities or blighting

The Wilsonville Year 2000 Plan has multiple cherry stems due to releasing accessed value from the ditrict.

conditions that are not directly adjacent to the area being studied, but which have a direct relationship to the area. Those areas can be added to the study area through a "cherry stem," a small section that connects one area to the other.

- ***Donuts:*** There may be an area within the potential boundary of an URA that is not included in the URA. This may be because it is a different land use, no projects are planned in that area, or may not relate to the URA. It is acceptable to establish a boundary and exclude that area, making a "donut."
- ***Non-contiguous areas:*** If a jurisdiction is considering multiple non-contiguous areas in one urban renewal boundary it should only be done when there is a direct functional or planning relationship between the two areas.

Jurisdictions sometimes study the possibility of adding more acreage to an URA than the specific area where projects would be implemented. This is done because the larger area typically benefits from the projects and the URA can use the overall growth to help establish the financial feasibility of the URA. This potential boundary adjustment should be carefully reviewed, as the constituents from the "added" areas often request to be removed from the urban renewal boundary in later stages of the process, especially if the main area is a commercial area and the "added" area is residential.

It can be challenging to determine exactly how much property to include in an URA. The URA needs to be blighted, and property in the URA should have a clear connection to projects in the urban renewal plan. Drawing a boundary that is too small and includes only severely blighted properties, however, could generate insufficient TIF to implement the plan. On the other hand, drawing a boundary that is very large and has less blight is likely to generate more TIF, but can be viewed as a "value grab," and could open up the URA to criticism.

D. Best Practices Tips

The most logical boundary encompasses the area that is blighted and will benefit from the use of TIF for the urban renewal projects and programs.

A boundary including non-contiguous areas should be established only after legal counsel review and approval. A cherry stem is the most conservative method to address muliple focus areas and should be the first method explored.

When determining the boundary for an URA, jurisdictions should balance the need to generate sufficient TIF to implement the projects defined in the urban renewal plan and the requirement for property in the URA to be blighted and have a clear connection to the projects in the plan.

4.3 GOALS/OBJECTIVES

A. Background

Urban renewal plans typically begin by stating the goals and objectives for the URA.

B. Statutory Provisions

There are no statutory requirements for goals and objectives.

C. Discussion

The basis for the goals and objectives of an urban renewal plan usually comes from the comprehensive plan and other adopted plans for the URA. Many jurisdictions will have specific planning activities that will spur the desire for urban renewal as an implementation tool, such as an action plan for realizing comprehensive plan goals, area plans for downtown commercial districts, Main Street actions, economic development plans, and other planning activities. These documents may be used as a basis for drafting goals and objectives for an URA.

The draft goals and objectives may then be reviewed by city or county staff and by stakeholders. The input from staff and stakeholders helps refine the goals and objectives and prioritizes them. Identifying the goals for the URA makes the project prioritization process easier, as those projects that help to fulfill the goals and objectives become priorities.

Well-written goals and objectives will help an urban renewal agency keep its focus as it begins accruing sufficient revenues to actually start working on projects. There is always a multitude of ways to spend funds, and it takes discipline to stick to the goals and objectives of an URA.

D. Best Practices Tips

Goals and objectives should provide a clear identification of the desire to address the blight in an URA and make the area function at a higher level. Well-written goals and objectives will help an agency keep its focus on activities that will improve the area. If the primary goals and objectives for the area change, the goals and objectives for the urban renewal plan should be revised to appropriately reflect those changes.

Before

After

STOREFRONT GRANT AND LOAN PROGRAMS

Florence has a façade improvement program that has successfully revitalized its downtown area.

SEWER INFRASTRUCTURE

In 2007, Hood River County developed an URA to assist in the financing of a sanitary sewer system for an unincorporated area of the county. The area was classified as a health hazard because of failing septic tanks. The County established a sewer service district to assess property owners for a part of the system, but reduced the costs to the property owners through an urban renewal program.

4.4 PROJECTS FUNDED WITH TIF

A. Background

When proposing an urban renewal plan, the urban renewal agency must determine the scope and types of projects that are appropriate for inclusion in urban renewal plan and the use of tax increment funds.[2]

B. Constitutional and Statutory Provisions

The Oregon Constitution, Article IX, Section 1c requires that tax increment funds be used only to "pay any indebtedness incurred for the redevelopment or urban renewal project."

ORS 457.010(15) defines an urban renewal project as: "'Urban renewal project'" or 'project' means any work or undertaking carried out under ORS 457.170 in an urban renewal area."

ORS 457.170 lists the projects that may be undertaken in an urban renewal plan.

ORS 457.010(15) establishes the definition of an urban renewal project.

ORS 457.170 lists types of projects that may be funded with tax increment revenues.

ORS 457.085(2)(a) requires that the urban renewal plan include a description of each project.

ORS 457.085(3)(d) requires that the urban renewal report include the cost of each project and the source of monies to pay such costs.

ORS 457.085(3)(e) requires that the urban renewal report include the anticipated completion date for each project.

ORS 457.085(2)(j) describes additional urban renewal plan requirements when projects include public buildings.

C. Discussion

Statutory provisions govern the types of projects that may be funded with tax increment funds. ORS 457.170 lists the following types of projects:

- Housing authority powers
- Rehabilitation or conservation work in an URA
- Acquisition of property

2. For purposes of this section, "tax increment funds" means the proceeds of debt issued or incurred by a URA, for which the URA has pledged its collection of taxes allowed by ORS 457.440 - 457.470 for repayment.

- Clearance or rehabilitation of property that is acquired by the urban renewal agency
- Construction or improvement of streets, utilities, and site improvements in accordance with the urban renewal plan
- Plans for voluntary repair and rehabilitation of buildings or other improvements in accordance with the plan
- Relocation of persons and property displaced by urban renewal projects
- Sale or lease of property
- Neighborhood development programs

All of these types of projects may be included in an urban renewal plan and may be funded with tax increment funds. However, an urban renewal agency needs to be aware of the allowed fund uses if the tax increment funds are the proceeds of bonded debt. Use of bonded debt proceeds are limited by the bond covenants.

Some urban renewal plans include paying all or a portion of local improvement district assessments, system development charges, or building permit fees for private or public development as an urban renewal project. These are acceptable projects because they are part of the costs of "site improvements," which are an allowed project under an urban renewal plan. ORS 457.170(5).

INFRASTRUCTURE, INCLUDING STREETSCAPE, WATER, SEWER, WASTEWATER, AND UNDERGROUNDING UTILITIES

In 2010, the City of Florence decided that the most important project for the redevelopment of their URA was the provision of a water line sufficient to support new redevelopment of major portions of vacant, underutilized properties.

1. General description of projects

Urban renewal project descriptions have evolved through the years and largely depend on the purpose and politics of an urban renewal plan. When describing the projects in the urban renewal plan, typically a balance must be struck between specificity and flexibility. Overly specific project descriptions can be problematic because they require the urban renewal agency to make plan amendments when even small changes to projects are needed, such as adjusting for changing physical conditions, market conditions, policy goals, and other constantly evolving factors. Therefore, many plans use broad categories to describe projects, which allows for the flexibility to fund a range of projects throughout the project area while still staying within the overall guidelines of each project category. This flexibility, however, cannot ignore that projects must be sufficiently specific to allow a finding of economic feasibility in the ordinance approving the plan, and to establish the project cost estimates necessary to determine maximum indebtedness.

For example, rather than calling for a streetscape improvement at a specific location consisting of a pre-determined design (e.g., width, materials, amenities), many plans will simply include a project called "streetscape improvements" that describes a range of streetscape improvements anywhere in the URA (or possibly within a specified sub-area). Within that definition would be language that authorizes different types of improvements, but does not obligate any particular form or location (unless desired). The identification of the broader categories,

INFRASTRUCTURE, INCLUDING STREETSCAPE, WATER, SEWER, WASTEWATER, AND UNDERGROUNDING UTILITIES

The Redmond South Airport URA was formed to provide infrastructure improvements to the industrial properties surrounding the Redmond Airport. The provision of this infrastructure promoted significant development and allowed the City of Redmond to close out the URA ahead of initial projections.

Astoria used tax increment funds in conjunction with other funding sources to renovate the Astor Hotel in their downtown core. The renovation has enlivened the ground floor retail spaces of the building, provided low income housing units on the upper floors, and helped retain or restore a historic building.

however, is generally accompanied by more detailed studies, reports, or plans that clearly articulate the need for such projects and can provide justification for the recommended project budgets in the urban renewal plan and the finding of economic feasibility required to approve the overall plan. These studies may already be in place through recent planning efforts that preceded the urban renewal discussion.

In addition to the legal requirements that require some level of specificity, flexibility must be balanced with a community's desire for certainty that the urban renewal plan will be used to fund projects that are of community importance. However, a plan does not need to use specific project definitions to provide this certainty, and public involvement is still key. Regular agency meetings where major expenses are authorized, annual budgeting is processed, and the preparation of other plans such as downtown plans, development strategies, and comprehensive plans, still provide ongoing opportunities for public input into the projects that will be funded by urban renewal. To this end, projects to be included in the urban renewal plan should be inspired by these other plans and documents.

In addition to deciding which projects to include in an urban renewal plan, a jurisdiction also needs to determine what level of funding for each project should come from urban renewal. For example, if a plan includes a project to provide financial assistance to private developers for vacant properties in downtown, how much assistance should the urban renewal agency contribute? If total development costs for this vacant lot are $10 million, should the agency contribute $500,000 or $5 million? There is no hard and fast rule for determining the share of urban renewal funding that should go to each urban renewal project.

In general, an urban renewal agency may want to consider several factors when deciding the appropriate level of funding for various projects. Those factors can include:

- ***Impact on blight:*** The primary goal of urban renewal is to alleviate blight. Therefore, when deciding how to spend urban renewal funds it makes sense that the impact a project has on curing blight in the area would be a major consideration.
- ***Return on investment***: Another basic goal of urban renewal is to increase property values and generate the TIF revenues necessary to carry out urban renewal activities. Therefore, another consideration should be how much TIF a project will generate, or how much additional funding will be leveraged by investment of TIF dollars.
- ***Proportionality:*** Although proportionality is not a concept defined in statute, it resonates with many communities because it appeals to common sense. Some projects in an URA may have benefits that extend far beyond that area. Many jurisdictions consider the relative benefits of a

project when determining the portion of the total project that should be funded by urban renewal.

While these factors for evaluating the appropriate level of funding for projects are applicable to all urban renewal projects, they have proven to be particularly helpful when addressing certain types of projects: projects with citywide or regional benefit and public buildings. These projects are discussed in greater detail below.

2. Projects with citywide or regional benefit

Some projects located within URAs provide benefits on a much broader scale. One such project would be a city hall, main library, or a public convention center. These "public buildings" are discussed in a separate section below.

Other examples of projects with broad benefits include a main trunk sanitary sewer, storm sewer, or water lines that connect major parts of the system to a source or outfall. Similarly, transportation projects that range from freeway interchange improvements to transit facilities can often benefit the whole city or region. These projects are allowed under urban renewal and can be paid for with tax increment funds.

3. Projects outside of the URA

There is no legal authority for an urban renewal agency to fund projects that are located outside of URA boundaries with tax increment funds. An urban renewal agency should always look to expand the URA (using a plan amendment, if necessary) to include the proposed project area. Areas in one urban renewal boundary do not have to be contiguous. In the past, some agencies have, with a supporting legal opinion, included projects outside the plan area because the projects were necessary to complete another project inside the plan area. This should only be considered with legal advice.

4. Public buildings with focused use

Public buildings, such as local fire stations and police precinct offices and substations that directly and primarily serve the URA, are relatively common projects. The statutes require that the urban renewal plan include a description of how a public building included as a plan project "serves or benefits" the urban renewal area. Even with incidental benefit to areas outside of the URA, tax increment funds may be used to partially or fully to fund the cost of their development.

5. Tax increment funding of public buildings

For projects that benefit an area larger than the URA, the benefit of the public building to the URA may not be as clear. But, for example, public buildings,

DEVELOPMENT OF PUBLIC BUILDINGS

The City of Sherwood made a strategic decision to develop their city hall and library in a blighted section of their URA. This decision has spurred adjacent redevelopment totalling millions of dollars. The library is heavily used and each visit to the city hall provides an opportunity for spill over traffic to the nearby retailers.

such as conference centers, can directly stimulate the development of private facilities (such as hotels) within an URA. Other public facilities may also directly stimulate private development within the URA.

The statutes neither allow for nor prohibit contributing a certain level of tax increment funds to public building projects that cure blight in the URA but that also have an impact outside the URA. However, many jurisdictions have funded public buildings using a proportionality approach. The specific statutes governing urban renewal are found in ORS Chapter 457, and are referred to in this document as 'the statutes.'

In 1987, the legislature considered several proposals limiting the use of tax increment funds. The urban renewal agencies argued that additional state prohibitions on the scope of urban renewal projects would restrict a jurisdiction's decision-making in relation to its local circumstances and its ability to address specific blighting conditions in each community. A particular legislative target was one city's main library that was funded entirely with tax increment funds. After much discussion, the current statutory language emerged as a compromise; it requires a jurisdiction to, at a minimum, justify including a public building project in its urban renewal plan.

Since the language requires a showing of the public building's connection to the URA, many believe that the scope of that connection should govern the size of the urban renewal contribution to the cost of the public building.

Examples of formulas that have been used to determine proportionality are:

- Percent of land inside/outside the URA benefited
- Percent of linear feet of a utility line or street inside/outside the URA benefitted
- Percent of users of a facility originating from inside/outside the URA
- Percent of growth of property value that a project is estimated to encourage inside/outside the URA
- Return on investment in the URA

In addition, there is an argument that public buildings that serve a larger area than the URA should not be constructed entirely using funds that are fundamentally meant to cure "blight" in the defined area. Tax increment funds are funds limited by the amount of taxes divided in an URA to repay the debt that produced the funds, and that debt is limited by the required statement of maximum indebtedness in an urban renewal plan. Many agencies have found that they have greater success investing in projects that clearly cure blighting conditions and/or encourage private development that cures blight. Investment in citywide or regional facilities may not have the same impact on conditions within the URA as these other targeted investments.

Using TIF for financing public buildings currently remains within local discretion. However, ORS 457.085(2)(j) and the scope of tax increment funding of public buildings has not been tested in the courts.

In some cases, the proportionate share of benefits enjoyed by the URA can be quantified, but in other cases the determination of the share of benefit of a project to the URA will be qualitative and will require a judgment call.

6. Local improvement district assessments/system development charges/building permit fees

Some urban renewal agencies include paying all or a portion of local improvement district (LID) assessments, system development charges (SDC), or building permit fees for private development as an urban renewal project in an urban renewal plan. These are acceptable projects because they are part of the costs of "site improvements," which are allowed projects in an urban renewal plan. ORS 457.170(5).

D. Best Practices Tips

Though an urban renewal agency should consult counsel on many issues, this consultation is especially important with regard to decisions about what types of projects may be included in an urban renewal plan and if they can be funded with tax increment revenues. There are, however, some general principles that can help guide these decisions:

1. General project scope

The best practice is to prepare project descriptions that are as broad as possible while still providing an adequate basis for finding economic feasibility, guiding policy makers, and assuring the community. As this is an inherently political benchmark, definitions will vary substantially from community to community. Amending an urban renewal plan is a difficult process, so it is important to make sure the appropriate project descriptions are included in the plan and the estimated project costs are accurate and clear when the plan is first adopted.

2. Projects with citywide or regional benefit

An urban renewal plan should demonstrate the particular benefits to the urban renewal area of a project with citywide or regional benefit, focusing on the project's ability to cure blight in the URA.

3. Projects outside URA boundaries

An urban renewal plan should not include projects outside the urban renewal area and instead should include all projects within the urban renewal boundary.

STREETSCAPE IMPROVEMENTS

Downtown Lake Oswego installed extensive streetscape features to catalyze development in the downtown. These features included angled parking, brick pavers, decorative bollards, public art, benches, planter boxes, lighting, and signage.

4. Public buildings

- The URA should demonstrate clear connections between a public building and the particular objectives of the urban renewal plan.
- The findings in the urban renewal plan and urban renewal report should provide a solid basis for the undertaking of a public building project and must explain how the public building serves or benefits the urban renewal area.

5. Funding public buildings

Tax increment funds may be used for public buildings that benefit or serve an area greater than the urban renewal area, but special consideration and financial participation should be given based on the the direct benefits to the urban renewal area.

6. LIDs/SDCs/building permit fees

Payment of local improvement district assessments, systems development charges, and building permit fees may all be projects in an urban renewal plan.

7. Tracking maximum indebtedness

For all projects carried out by an urban renewal agency it is important to track the impact they will have on the maximum indebtedness of the urban renewal plan. The recommended method for tracking maximum indebtedness is described in greater detail in ***Section 6.8, Debt and Maximum Indebtedness Reporting.***

4.5 COMPREHENSIVE PLAN AND ECONOMIC DEVELOPMENT PLAN REVIEW

A. Background

An analysis of the comprehensive plan and other plans and reports, including an economic development plan, will enable a jurisdiction to ensure that a future urban renewal plan will conform to the adopted planning documents.

B. Statutory Provisions

ORS 457.085(1)(d) and ORS 457.095(3) address the need for an urban renewal plan to be in conformance with the comprehensive plan and economic development plan.

C. Discussion

The review should identify each major goal and supporting policies in the comprehensive plan and economic development plan that are relevant to the established boundary and then state how the urban renewal plan conforms to that goal. It is not anticipated that the urban renewal plan will conform to every goal in a comprehensive or economic development plan, but it should conform to the intent of those documents.

D. Best Practices Tips

The urban renewal plan must be analyzed for its conformance with the comprehensive plan and economic development plan. This documentation can sometimes be lengthy; it may be better to make the statement that the urban renewal plan conforms in the body of the text and then refer to an appendix in the plan for the full analysis.

4.6 PROCEDURAL REQUIREMENTS FOR APPROVAL OF A PLAN

A. Background

There are specific steps identified in ORS 457 for the adoption of an urban renewal plan. These steps vary slightly depending on whether the jurisdiction is a city or a county.

B. Statutory Provisions

The following statutory provisions apply:

ORS 457.085 covers the requirements for the content of an urban renewal plan and specifies to whom it must go for recommendations and consulting and conferring with taxing jurisdictions

ORS 457.095 covers approval of a plan

ORS 457.105 details the additional provisions if any part of the URA is in another jurisdiction

ORS 457.115 and 457.120 cover notice of the adoption of a plan

ORS 457.120 covers the notice procedures of the city council hearing

ORS 457.125 details recording of a plan

ORS 457.437 requires meetings with affected jurisdictions

ORS 457.470 requires consultation with affected taxing jurisdictions

C. Discussion

1. Activation of an urban renewal agency

Section 3 of this manual describes establishing an urban renewal agency.

2. Establishing an area boundary

Section 2.2: ***Area Boundary*** of this manual describes establishing an area boundary.

3. Referral of the proposed plan to the planning commission for their review

If the jurisdiction has a planning commission, the plan and report must be

presented to the commission for its recommendation before the plan may be presented to the city council or county commission for approval. The planning commission review is best done at a public hearing.

ORS 457.085 and 457.095 require planning commission recommendations. ORS 457.095(3) requires that the urban renewal plan conform with the comprehensive plan and economic development plan. However, the planning commission's recommendations are not further defined in the statutes. The planning commission is generally advised that their role should be to determine the conformance of the urban renewal plan with the jurisdiction's comprehensive plan, as planning is the purview of the planning commission. Some planning commissions prefer to just review and make recommendations on the conformance issue while others like to encourage the jurisdiction to approve the plan.

Notice of the planning commission review is the same as for any planning commission meeting. No other notice provisions are required.

4. Consult and confer with the affected taxing districts

The minimum level of interaction with the affected taxing districts is set out in the statutes. At a minimum, an agency must consult and confer with the affected taxing districts. Both the urban renewal plan and the urban renewal report must be sent to the governing body of any taxing district that is affected by the plan with an offer to consult and confer. (Taxing districts that levy taxes within the URA are "affected" taxing districts.) Any written recommendations made by these taxing districts must be accepted, rejected, or modified by the city council or county commission when approving the plan. ***Section 4.1: Public Involvement*** and ***Section 2.7 Impacts on Taxes Imposed by Overlapping Taxing Districts*** of this document details other ideas about working with taxing districts. The requirements under this section are different if the URA is requesting concurrence, as described in ORS 457.470.

In this section of the document, "municipality" is used to define any county or city in Oregon, as that is the term used in the statues. The municipality means the municipality for which a particular agency is created.

5. Meeting with affected municipalities

Prior to the establishment of a maximum amount of indebtedness for an urban renewal plan, the urban renewal agency that is carrying out the plan shall meet with the governing bodies of the municipality that activated the agency and other municipalities affected by the urban renewal plan to review the proposed maximum amount of indebtedness. No formal action is required by the affected municipalities (ORS 457.085(5)). The meaning of this section is that a "city" urban renewal plan must be presented to the county commission for their information. Their vote is not required.

However, when any portion of the area of a proposed urban renewal plan extends beyond the boundaries of a city into any other municipality (city or county) and, in the case of a proposed plan by a county agency, when any portion of the URA is within the boundaries of a city, the governing body of the

other municipality may approve the plan and may do so by resolution rather than by ordinance (ORS 457.105).

6. Municipality public hearing/notice of hearing

Under the provisions of ORS 457.120(3) notice of a proposed plan must include the following specific information:

- That the governing body, on a specified date, will hold a public hearing and consider an ordinance adopting an urban renewal plan;
- That the adoption of the plan may impact property tax rates;
- Statement of the maximum indebtedness that can be issued or incurred under the plan;
- That the ordinance, if approved, is subject to referendum; and
- That a copy of the ordinance, plan, and report can be obtained by contacting a designated person.

7. Notice requirements for plan approval

The statutory requirements for individual, mailed notice, often called "supernotice" are stated in ORS 457.120. Notice of the city council public hearing on approval of the urban renewal plan must be sent to individuals or households in one of the following groups:

- Owners of real property that is located in the municipality;
- Electors registered in the municipality;
- Sewer, water, electric, or other utility customers in the municipality; or
- Postal patrons in the municipality and parts of the URA that extend beyond the municipality.

For county plans, the individual notice must be provided to one of the same groups within the boundaries of any K-12 school district that levies taxes within the URA. Counties must also provide notice in the paper of general circulation throughout the county in an advertisement not less than three inches in height and three inches in width in the general interest section of the newspaper (ORS 457.120(4)(b)). It must contain language identified in ORS 457.120(3)(a-e).

If a plan is both in a city and in a county, notice must not only be sent to the requirements stated for a city above, but also be sent to each individual in the selected group that is located in the URA (ORS 457.120(2)). This supernotice must contain specific language, as defined in ORS 457.120(3)(a-e).

8. Approval of the plan by the municipality

An urban renewal plan is approved by the governing body of the municipality (city council or county commission) by the adoption of an ordinance. The ordinance must be a non-emergency ordinance. The specific requirements for the contents of the ordinance (ORS 457.095(1)-(7)) are as follows:

- Each URA is blighted;
- The rehabilitation and redevelopment of the URA(s) is necessary to protect public health, safety, or welfare;
- The plan conforms to the comprehensive plan and economic development plan, if any, of the municipality and the urban renewal plan provides an outline of planned urban renewal projects;
- Relocation requirements have been met;
- Any property acquisition called for in the urban renewal plan is necessary to achieve the objectives of the plan. S***ee Section 6.12: Acquisition/ Disposition of Real Property*** of this document.
- The plan is economically sound and feasible; and
- The city or county will assume any responsibilities given to it under the plan.

There are no state statutory requirements for a citywide or district-wide vote on approval of an urban renewal plan, but a city council or county commission (as the case may be) may decide to refer the decision to the voters. There are some local laws requiring a vote on establishing an urban renewal agency, adopting an urban renewal plan, and amending a plan.

9. Hearing

At the public hearing on the ordinance, the jurisdiction (city council or county commission) should hear the report and recommendations of the urban renewal agency and take public testimony and consider the recommendations, if any, of the planning commission and affected taxing districts. Any written recommendations from the affected taxing districts must be formally accepted, rejected, or modified.

10. Recording

An urban renewal plan, along with a copy of the ordinance approving the urban renewal plan, must be recorded with the recording officer of each county in which any portion of an URA within the plan is situated. A copy of the plan should also be sent to the county assessor. This should be done after the 30 day waiting period.

11. Notices

Notice of adoption of an ordiance approving an urban renewal plan shall be published within four days of adoption of the ordinance in a newspaper that has the greatest circulation in the municipality and which is published within the municipality no later than four days following the adoption of the ordinance. If no newspaper is published in the municipality, the notice may be published in the newspaper having greatest circulation within the municipality. The notice must say that the ordinance has been adopted, and that 90 days after adoption of the urban renewal plan, the plan will be conclusively presumed to be valid. (ORS 457.095 and ORS 457.115)

D. Best Practices Tips

Writing an urban renewal plan is technical and complicated. Jurisdictions should use an urban renewal professional or have staff with extensive urban renewal experience assist in the preparation of an urban renewal plan. If internal staff prepares the urban renewal plan, seasoned urban renewal counsel should review the plan prior to adoption.

Staff should make sure the county assessor has accurately identified the boundaries of the URA.

4.7 URBAN RENEWAL REPORT

A. Background

An urban renewal report shall accompany an urban renewal plan. Its purpose is to identify the existing conditions of the proposed URA (including proposed projects) and the estimated costs of projects and sources of funding and perform the financial feasibility analysis.

B. Statutory Provisions

ORS 457.085(3)(a-i) identifies the required components of an urban renewal report. These components are detailed in the discussion section below.

C. Discussion

The components of an urban renewal report accompanying an urban renewal plan are:

- A description of the physical, social, and economic conditions within the URA and the impact of the plan, including fiscal impacts, in light of

added services or increased population.

- o This includes data that describes the current land use, zoning, and comprehensive plan designations, as well as a review of the capital improvement plans (water, sewer, stormwater) and the transportation systems plan to identify those projects that are scheduled for the URA and to identify the existing conditions of the infrastructure within the URA ***(Section 2.3 Blight).***

- The reasons why the URA was selected.
  - o The primary reason any URA is selected is to cure blight. The secondary reasons will relate to any adopted plans for the URA or projects that are designated for the URA.
- The relationship between each urban renewal project and the conditions within the URA
- A description of any projects and a detailed description of the present condition of that specific project. See examples below:
  - o Project: Union Avenue will be constructed from Astor Street to Benton Street.
  - o Union Avenue is in poor condition and does not have adequate sidewalks or adequate streetscape.
- The estimated costs of the projects and the sources of project funding. See examples below:
  - o Project: Union Avenue from Astor Street to Benton Street $1,200,000
  - o Urban Renewal: $1,000,000; Local Improvement District: $200,000
- The estimated completion date for each project (all projects in a table). See example below:
  - o Project: Union Avenue from Astor Street to Benton Street Estimated Completion: 2014
- The amount of tax increment funds that are estimated to be required and the year in which the urban renewal agency plans to pay off all outstanding tax increment indebtedness ***(Section 2.6 Financial Analysis).***
- A financial analysis that shows the financial feasibility of the urban renewal plan ***(Section 2.6 Financial Analysis).***
- An analysis of the impact on the tax rates and/or revenues of the taxing districts that overlap the URA ***(Section 2.6 Financial Analysis).***

McMinnville adapted an urban renewal plan in 2013 to implement the Northeast Gateway Plan and resulting comprehensive plan overlays.

State statutes do not require that an urban renewal report be recorded with the urban renewal plan.

- A relocation report which includes:
  - An analysis of businesses or residents that may be required to relocate;
  - A description of the methods to be used in the relocation program; and
  - An analysis (number and cost range) of the existing housing units that may be destroyed or altered and the housing units that may be added.

If the urban renewal plan does not include acquisition or projects that would require relocation, then this report can address general relocation requirements. If specific actions are being taken that will require relocation, then the section needs to contain the explicit information required by ORS 457.085(3)(i)(A-C).

An urban renewal report should also cover the compliance with acreage and assessed value limitations of ORS 457.420.

D. Best Practices Tips

Writing an urban renewal report is technical and complicated. Jurisdictions should use an urban renewal professional or have staff with extensive urban renewal experience assist in the preparation of an urban renewal plan and report. If internal staff prepares the urban renewal report, it should also be reviewed by seasoned urban renewal counsel prior to presentation.

DEFINING BLIGHT

Oregon statutes define blighted areas as areas characterized by one or more of the following conditions:

- Unfit or unsafe structures
- Economic deterioration resulting from faulty planning
- Poor platting
- Disregard of physical characteristics
- Inadequate streets, open spaces, and utilities
- Flooding
- Property value depreciation
- Underutilized property
- Loss of population and assessed value

4.8 BLIGHT

A. Background

The purpose of urban renewal is to cure existing blight and prevent future blight. Blight is defined in the statutes (ORS 457.010(1)(a-i)). The jurisdiction must find that an area is blighted and therefore eligible for urban renewal. ORS Chapter 457 clearly defines the components of an urban renewal plan and report, and sections of those documents must include information on the existing conditions of the area being studied. In addition, in order to approve an urban renewal plan, the jurisdiction is required to find that "blight" exists in the URA that is included in the urban renewal plan. The actual findings and determinations of blight occur in the municipal ordinance that adopts the urban renewal plan, but those findings and determinations are based on the information compiled in an existing conditions analysis. The methods used to document blight may vary by jurisdiction depending on the conditions in the URA. Some areas may have buildings that are unfit or unsafe whereas other areas may lack development and have infrastructure needs.

URAs must be found to be "blighted areas" by the governing body.

B. Statutory Provisions

ORS 457.095(1) requires that the municipal governing body find conditions of blight within the URA.

ORS 457.085(3)(a) requires that an urban renewal report accompanying an urban renewal plan "describe the physical, social, and economic conditions in the urban renewal areas of the plan."

ORS 457.010(1) defines blighted areas.

C. Discussion

Examples of blight analyses include the following:

- Building surveys, using an explicit coding system to classify buildings.
- Building surveys, including upgrades to meet seismic requirements.
- Improvement value to land value ratios, based on assessed value data. (Different ratios may be established as representing a healthy level of development, considering the planned land use and the characteristics of property values on similar properties in other locations.)
- Analysis of platting patterns and comparison of lot sizes and configurations that exist in the URA with typical lot sizes and configurations that are desirable for particular land uses.
- Documentation of physical and environmental characteristics and the inadequate response to these conditions in such areas as comprehensive plan designations, zoning, platting, and capital improvement plans.
- Environmental characteristics may include the presence of wetlands, contaminated soils, air quality issues, water quality issues, and other environmental constraints to development.
- Analysis of the transportation and utility requirements of the planned land uses and development and comparison of these requirements with the existing level of such facilities. This analysis includes review of the utility master plans and projects identified in the capital improvement plan.
- Analysis of flooding problems, including delineation of 100-year flood plains and floodways and analysis of development restrictions imposed in such areas either by local ordinance or Federal Flood Insurance Program requirements.
- Analysis of population, income, and housing characteristics of the URA, using data from the US Census, local housing plans, local community development plans, and other sources.

Not all of these surveys and documentation must be completed; the minimum

Blight is a condition that pertains to the URA as a whole. URA boundaries may include specific properties that are not individually blighted.

requirements are those stated in the statute (ORS 457.085(3)(a)). Circumstances may require a more full documentation of blight, which would involve a more thorough analysis.

D. Best Practices Tips

It is a good idea to connect blight findings in the analysis to specific conditions within the URA.

4.9 FINANCE

A. Background

New urban renewal plans must include an analysis of the timing and sources of funding for projects described in the urban renewal plan. This includes estimating when TIF revenues would be available to finance projects (and prioritizing projects accordingly), determining what share of total project costs should be reasonably expected to be covered by TIF and estimating the overall impact of the urban renewal on affected taxing districts.

B. Statutory Provisions

ORS 457.420 to ORS 457.470 describes tax increment financing of urban renewal indebtedness.

C. Discussion

Forecasting TIF revenues is a relatively straightforward process and involves five steps:

1. Determining the frozen base
2. Estimating future growth in assessed value
3. Determining the applicable tax rate
4. Calculating increment and total TIF
5. Accounting for revenue sharing

1. Determining the frozen base

The frozen base is the total assessed value of all property in an URA in the most recent fiscal year for which data was available before approval of the urban renewal plan. The local county assessor's office can provide this assessed value

data. The frozen base needs to include all four property types: real, personal, manufactured, and utility. Records for utility property are not site specific and will need to be estimated for the purposes of the urban renewal plan. Typically, the assessor will determine the amount of utility value to be included in the frozen base by looking at the ratio of utility property assessed value to real property assessed value in the tax code area(s) that overlap the proposed URA and applying the same ratio to property within the URA.

Sometimes the planning process for a new URA can be long and new assessment data may become available during this process. It is important to update any preliminary analysis with new data when it becomes available, as this will be the data that the assessor uses to establish the actual frozen base.

2. Estimating future growth in assessed value

A prudent approach is for forecasts of TIF revenues to be based on conservative assumptions of growth in assessed value. It is often useful to look at long-term historical trends as a starting place for future growth assumptions, then adjust these assumptions to account for known taxable redevelopment that is planned or in progress, current market conditions, and anticipated urban renewal projects that would stimulate additional redevelopment in the future.

3. Determining the applicable tax rate

All new urban renewal plans are "reduced rate plans." This means that the applicable tax rates include permanent property tax rates, as well as a calculated rate for paymement of any GO bonds approved prior to 2001. The local county assessor's office will have information on applicable tax rates.

Jurisdictions that already have one or more URAs may report urban renewal adjusted tax rates in addition to their full permanent rates. It is important to use the full permanent rates and not urban renewal adjusted rates.

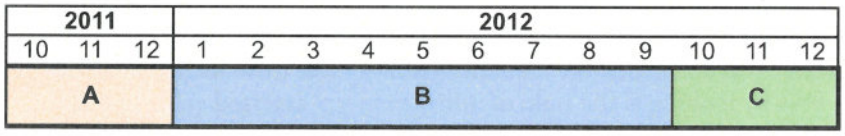
4. Calculating increment and total TIF

Calculating the incremental value (increment) is straightforward. Subtract the frozen base value from the forecast future value to determine the increment in any given year.

To calculate TIF revenues, multiply the increment by the total applicable tax rate.

The first year to receive TIF is based on the first year that tax rolls are set after adoption of the urban renewal plan. In many cases, there is a year gap when the plan has been adopted but no TIF revenue is collected. Figure 1 shows how the timing of adopting an URA can affect TIF revenues in the early years.

Figure 1. Timing of URA adoption



Period	Frozen Base Year	First Year to Collect TIF
A	2011-12	2012-13
B	2011-12	2013-14
C	2012-13	2013-14

Assessment and Taxation Milestones

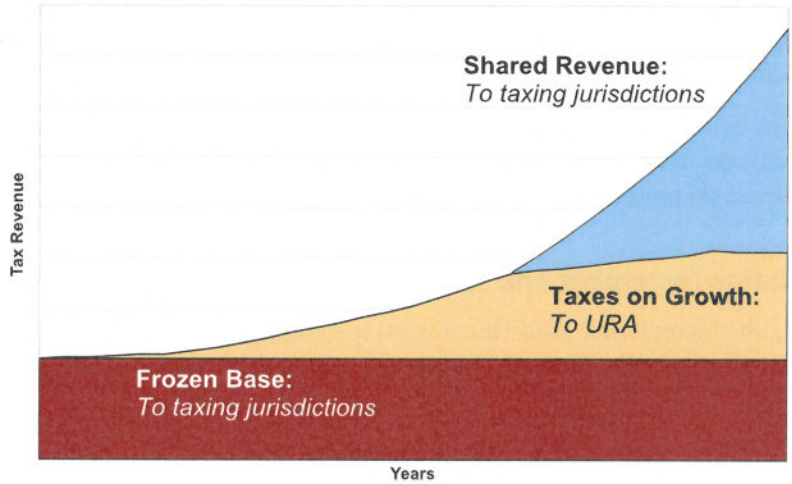
Date	*Milestone*
Oct. 2011	Tax roll released for FY 2011-12
Jan. 1, 2012	Tax roll set for FY 2012-13
Oct. 2012	Tax roll released for FY 2012-13
Jan. 1, 2013	Tax roll set for FY 2013-14

5. Accounting for revenue sharing

Not all TIF revenue will accrue to the urban renewal agency. Some TIF revenue is shared with other taxing districts. The amount of sharing depends on the prior year's total TIF revenues as a percentage of the URA's maximum indebtedness.

Figure 2 illustrates how revenue sharing works for a hypothetical URA. If the prior year's TIF collections exceeded 10% of maximum indebtedness, then the URA receives TIF equal to 10% of maximum indebtedness, plus 25% of the amount of TIF that exceeds 10% of maximum indebtedness. If the prior year's TIF collections exceeded 12.5% of maximum indebtedness, then the URA receives 12.5% of maximum indebtedness, and all additional TIF revenue is shared with other taxing districts. Essentially, TIF revenues for an URA are capped at 12.5% of maximum indebtedness.

Figure 2. Revenue Sharing



6. Financing

It is important to remember that TIF revenues do not equal the dollars available for projects. TIF revenues are used to pay debt service on debt that pays for project costs. Thus, the financial analysis needs to make assumptions on the type of debt that will be incurred by the urban renewal agency and the terms

associated with that debt (for example, interest rates, coverage ratios, reserve requirements, issuance costs, and amortization period). It may be helpful to check with financial advisors to ensure that the analysis is grounded in reasonable assumptions.

7. Impact to overlapping taxing districts

Calculating the impact to overlapping taxing districts is relatively straightforward. The impact is equal to the lost revenues that would have been received by the taxing districts plus the shared revenue (if any) generated by the URA for the taxing districts.

The lost revenues that would have been received by the taxing district are calculated by multiplying a jurisdiction's applicable tax rate by the assessed value that would have been in the area without urban renewal investment. The applicable tax rate for most URAs will be equal to the permanent rate. GO bond rates for post-2001 bonds should not be included in the impact to taxing districts because tax increment revenues do not decrease the taxes levied for GO bonds. Local option levies should also not be included in the impact to taxing districts as they are not included in the consolidated tax rate used by the URA to calculate division of taxes revenues.

The assessed value that would have been in the area without urban renewal investment can be tricky to measure and ultimately requires a judgment call. On one extreme, it is possible that none of the new development in an URA could have occurred without urban renewal, which would mean that the assessed value that would have been in the area without urban renewal would be limited to 3% growth per year. On the other extreme, all of the new development in an URA could have occurred without urban renewal. Figure 3 shows a graph of the impact of a hypothetical URA on overlapping taxing districts.

Figure 3. Impact on Taxing Districts

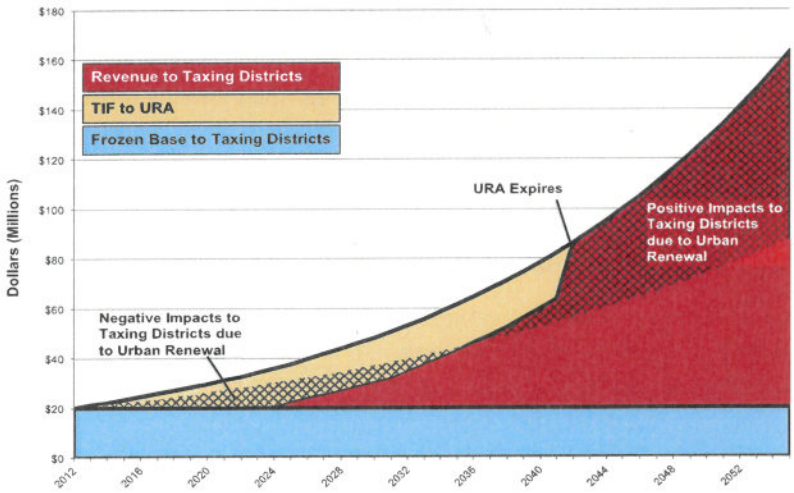


Figure 3 shows that, in early years, the district has a negative impact on overlapping taxing districts. When revenue sharing begins, the annual negative impact begins to shrink. Over a long enough period of time, the revenue sharing has a larger impact and could eventually result in a positive annual impact for overlapping taxing districts. Figure 3 only shows the impacts on overlapping taxing districts while an URA is collecting tax increment revenues. If the graph were to show years after the URA stops collecting tax increment revenues then there would be a dramatic surge in the positive impact to overlapping taxing districts.

ESTIMATING THE PORTION OF PUBLIC COSTS ATTRIBUTED TO THE URA

If development of a new business park occurs within an URA, then it may have gross impacts from the jobs it provides, the assessed value it adds to the tax rolls, and the infrastructure needed to serve the building. But, one cannot calculate the net impact of new development without making assumptions on what would have happened without urban renewal.

- Would the businesses located in the business park cease to exist?
- Would they locate in existing buildings in the URA or elsewhere in the jurisdiction?
- Would a similar business park have developed elsewhere in the jurisdiction?

Major assumptions are required to determine what would have happened without urban renewal, and they would be difficult to defend with any certainty.

8. Fiscal Impacts

The fiscal impacts of urban renewal include more than the tax rate impacts. Urban renewal plans commonly result in the acceleration or intensification of development than may have otherwise occurred without an urban renewal program. This development requires public facilities and services and will have impacts on the community's economic, social, and physical environment.

Broader fiscal impacts should be analyzed in light of the community's comprehensive plan. That plan is required to demonstrate how the community will provide public facilities and services to serve the development called for in the plan and show how the impacts of such development are to be addressed.

The property tax revenue impacts to overlapping taxing districts are especially important if implementation of the urban renewal plan is projected to increase the demand for the services provided by the taxing districts. On the other hand, the projects undertaken under the urban renewal plan can also result in service improvements. For example, older buildings may be brought up to fire and life safety codes, and so, alleviating blight can result in reduced need for police services. Utility projects commonly include looped water lines that allow for better and more reliable fire service.

In discussing these impacts, the urban renewal report should balance the negative impacts of loss of revenue with the positive impacts of implementing the urban renewal plan. The detail with which this is analyzed should depend on the degree of the impacts.

Attempting to calculate the full fiscal impact of any proposed development is an exercise fraught with challenges. One challenge is distinguishing between gross and net impacts. See the sidebar for one example.

Another challenge of calculating the fiscal impacts of development in URAs is determining the portion of public costs that should be attributed to the URA and the portion that stems from demand outside of the URA. Considering the example of the business park discussed inside the box, what happens if a new police station is built to provide public safety services to the business park? Certainly the police station serves a population larger than just the business park. The addition of the business park is likely just one of many factors that determined the timing, size, and location of the public investment in a new police station. In short, when new infrastructure is needed to serve development in URAs, it can be difficult to determine exactly what portion of those infrastructure costs can be attributed to the URA versus other factors.

In general, it is best to recognize that there are many challenges to calculating the fiscal impact of URAs, and any attempt to do so should recognize the limitations of such an analysis.

D. Best Practices Tips

It is prudent for jurisdictions to prepare a comprehensive financial analysis that considers all relevant assumptions to ensure that decisions made relative to the establishment of maximum indebtedness are appropriately informed. Financial analysis for an urban renewal plan and report is both important and complex and jurisdictions should ensure that they have adequate expertise to complete this analysis. Jurisdictions are encouraged to work with legal counsel, professional consultants, or experienced urban renewal practitioners when they conduct this analysis.

CHAPTER CONTENTS

This chapter contains the following sections:

5.1 Minor amendments

5.2 Council-approved/major amendments

5.3 Substantial amendments

5. Amendments to the Urban Renewal Plan

Urban renewal agencies may need to amend urban renewal plans to adjust to current issues and opportunities. Urban renewal plans must contain a section where the types of amendments are defined.

There are different types of urban renewal plan amendments, depending both on statutory provisions and political realities in different jurisdictions. The definition of substantial plan amendments is a major means of exerting policy direction over the implementation of an urban renewal plan. Local jurisdictions often express their sensitivity to particular urban renewal issues by defining changes in those activities as substantial amendments to the urban renewal plan. Alternatively, the jurisdiction can allow the urban renewal agency latitude in dealing with activities on which there is strong community consensus by not defining changes in such activities as substantial amendments.

ORS 457.085(1)(i)(A,B) define the amendments that must be considered substantial and further require that the hearings on substantial amendments be subject to the direct notice (supernotice) requirements for the new urban renewal plans themselves. For all agencies, the definition of which plan amendments are to be considered substantial is a critical decision. Amendments that are not substantial amendments are termed minor amendments.

In light of the supernotice requirements for substantial amendments, some jurisdictions may want to have a higher level of review for a decision but feel that the cost of a supernotice is not warranted. These urban renewal plans contain a third category of amendment and require a process in between the processes for substantial and minor amendments. Commonly called a "council-approved" or "major" amendment (because for a city agency, it would require the approval of the city council by non-emergency ordinance), amendments of this type are processed in the same manner as substantial amendments, except there is no supernotice requirement. Many plans use this category for amendments that were formerly, or would otherwise be, substantial amendments.

Where any plan amendment constitutes a land use decision, municipal counsel should be consulted to determine the appropriate procedures to be followed. If the amendment is found to constitute a land use decision, the urban renewal agency should determine whether such decisions are legislative or quasi-judicial in nature.

The 2009 Oregon Legislature enacted new provisions to urban renewal, some of which come into effect for amendments to an urban renewal plan. These provisions allowed for:

- The requirement of revenue sharing when tax increment revenues hit certain trigger points
- Limitations on maximum indebtedness increases without concurrence from taxing jurisdictions (ORS 457.470)

5.1 MINOR AMENDMENTS

A. Background

Minor amendments may cover any action of the urban renewal agency to change the existing urban renewal plan in a way other than that which is defined as a substantial amendment in ORS 457.085(2)(i). These typically include changes to projects, programs, goals, or objectives, additions of land that are not in excess of 1% of the total land area of the URA, acquisition, and identification of public purpose for any new project that includes a public building.

B. Statutory Provisions

ORS 457.085(2)(i) states that there are substantial amendments and specifies which actions must be substantial amendments. The statutes do not deal with minor amendments.

C. Discussion

Minor amendments are commonly approved by action of the urban renewal agency and are commonly affected through resolutions as opposed to ordinances of the governing body. Urban renewal plans are not required to specify processes for minor amendments.

1. Report requirements for minor or other lower level amendments

The following information should be documented and put in the staff report on a minor amendment. The documentation is an addition to the initial urban renewal report; a full new report is not required.

- If there is property added, do a full existing conditions analysis of the property to be added (ORS 457.085(3)(a-i)).
- If projects are added, perform a financial feasibility to show the projects are feasible under the project section on total costs of projects and monies to pay such costs.
- For projects added, state the project and its relationship to the existing conditions in the URA.
- For projects, state the estimated completion date for each project.

While not required in mot cases, a new report or amendment to the old report can keep the report document up to date as the plan changes.

2. Existing plan provisions for substantial amendments

If the existing urban renewal plan has provisions for substantial amendments other than those identified in the statutes, and the jurisdictions wishes to change the provisions, they should consult with legal counsel about how to make changes.

D. Best Practices Tips

Minor amendments should cover all urban renewal plan amendments that the locality is comfortable having made at the urban renewal agency level. These minor amendments are typically affected through a resolution of the agency.

If the jurisdiction wishes to have city council review and approval of some amendments to certain provisions of an urban renewal plan, but wishes to avoid the full substantial amendment process, those amendments should be identified as council-approved amendments.

5.2 COUNCIL-APPROVED/MAJOR AMENDMENTS

A. Background

In light of the individual, mailed notice requirements for substantial amendments, some jurisdictions may want to have a higher level of review for a decision but feel that the cost of a supernotice is not warranted. These urban renewal plans contain a third category of amendment and require a process in between the processes for substantial and minor amendments. Commonly called a council-approved or major amendment (because, for a city agency, it may require the approval of the city council by ordinance). Amendments of this type are processed in the same manner as substantial amendments, except there is no supernotice requirement. Many plans use this category for amendments that were formerly, or would otherwise be, substantial amendments. These are generally an addition or change of a project that exceeds a specified dollar amount or acquisition of property.

B. Statutory Provisions

ORS 457.085(2)(i) states that there are substantial amendments, and specifies which actions must be substantial amendments, but the statutes do not deal with council-approved or major amendments.

C. Discussion

Council-approved or major amendments should be presented to the jurisdiction by the urban renewal agency and approved by either an ordinance or a resolution of the governing body.

D. Best Practices Tips

The use of council-approved or major amendments should be made at the local level. If they are used, they should be termed council-approved amendments, as the term major amendment is often confused with substantial amendment," which is a statutorily defined term.

5.2.1 PUBLIC INVOLVEMENT FOR MINOR AND COUNCIL-APPROVED/MAJOR AMENDMENTS

A. Background

A minor amendment or council-approved amendment (any amendment not considered substantial) will be defined in most urban renewal plans. A minor amendment can be done with the approval of the urban renewal agency or jurisdiction and does not typically require any additional stakeholder involvement.

B. Statutory Provisions

There are no statutory requirements for public involvement in amendments that are not substantial amendments.

C. Discussion

Stakeholder involvement may be beneficial in some of the following examples: from a citizen's advisory committee, a citywide committee, such as a parks committee that would have input on specific projects, or a business district that would want input on projects.

D. Best Practices Tips

The public involvement process on a minor amendment or council-approved amendment should reflect the impact of the change, i.e. a change with more

Bandon Area Two Amendment was designed around the Bandon Parks Committee recommendations on projects. The projects in Area Two are mostly parks and trail projects. Pictured above are two of the Bandon Area Two projects: the Barn Community Center and pedestrian bridge.

impact should have more involvement. If the change is a major change in a project and there is a stakeholder committee with vital interest in that change, that group should review the change before the plan is amended.

5.3 SUBSTANTIAL AMENDMENTS

A. Background

A substantial amendment must be adopted in the same manner as a new urban renewal plan. This is the highest level of review for amendments. In general, a full report is required to both re-document the existence of blight within the existing area and provide the information required in a report for the change being proposed. However, if the plan has been recently adopted and the existing conditions have not changed, a re-documentation of blight for the existing area may not be required. This section contains the following information:

- Public involvement
- Procedural requirements for approval of a substantial amendment
- Finance

B. Statutory Provisions

The statutes (ORS 457.085(2)(i)(A) and (B)) define two types of amendments that must be considered substantial, and which, therefore, must be adopted in the same manner as the adoption of the original urban renewal plan. These two types must include supernotice. These types of amendments are:

The increase of land by more than 1% refers to the original plan acreage. This 1% is irrespective of any removals of land from the area.

- Increasing the size of the URA by more than 1%.
- Increasing the maximum amount of indebtedness that may be issued or incurred under the urban renewal plan.

ORS 457.010(5)(a) and (b) define existing urban renewal plans.

C. Discussion

1. Determining the type of plan

Before pursuing a substantial amendment, the urban renewal agency will want to verify the type of urban renewal plan it has. There are three types of plans: existing plans, window plans, and new plans. The type of plan is based on the time frame of adoption and adoption of maximum debt prior to December 6, 1996. Financial impacts are different depending on the type of plan.

Existing plans: reduced rate or standard rate

Window plans: standard rate

New plans: reduced rate

See Appendix A for more information on determining the type of plan.

D. Best Practices Tips

If the prior urban renewal report is current within a few years and little has changed in a district, the following standards could be followed:

1. If there is property added, do a full existing conditions analysis of the property to be added or of the new area in total;
2. State the reasons for the selection of the URA;
3. If a new maximum indebtedness is established, perform a full financial feasibility, including the impact on affected taxing jurisdictions;
4. For projects added, perform a financial feasibility to show the projects are feasible under the report section on total costs of projects and monies to pay such costs;
5. For projects added, state the project and the relationship to the existing conditions in the URA; and
6. For projects, state the estimated completion date for each project.

If the prior urban renewal report is not current, a full report in accordance with ORS 457.085(3)(a-i) should be completed, including an analysis of the existing area.

5.3.1 PUBLIC INVOLVEMENT FOR SUBSTANTIAL AMENDMENTS

A. Background

Public involvement is a key component of all phases of urban renewal planning, from the inception of an URA to the ongoing administration of the urban renewal plan, including the adoption of a substantial amendment. Involvement needs range from including the public as a whole to including the specific affected local taxing jurisdictions. Adoption of an urban renewal plan amendment goes more smoothly when there is public support for the plan.

OPTIONS FOR PUBLIC REVIEW:

- Review of the substantial amendment by an advisory committee.
- Holding a public hearing specifically to provide information on urban renewal and the proposed amendment.
- Establishing a web presence by both posting the proposed amendment and posting information about the opportunities for public input.
- Having one or more public open houses where the public is invited to participate actively in planning: putting "dots" on specific ideas for projects, voting for key concepts.
- Using social networking tools, such as Twitter, to broadcast meetings.
- Working with the local business district to provide input to urban renewal decisions.
- Designing a Facebook page for the URA.
- Mailing to households within the URA to provide information or invite them to public meetings.
- Presenting information at other public forums such as a farmer's market or other public gathering spaces/events.
- Streaming the public meetings on public television.
- Some localities may require public vote of substantial amendments.

B. Statutory Provisions

The statutory requirements are for public involvement in all stages of the development of an urban renewal plan:

- ORS 457.085(1) requires that "an urban renewal agency shall provide for public involvement in all stages of the development of an urban renewal plan."
- ORS 457.085(2)(i) requires substantial amendments to require the same notice, hearing, and approval procedure required of the original urban renewal plan.
- ORS 457.085(4) and ORS 457.085(5) require that substantial amendments must be presented to the planning commission of the jurisdiction and to the governing bodies of taxing districts affected by the plan.
- ORS 457.437 requires that a city urban renewal agency meet with the governing body of the county affected by the plan.
- ORS 457.095 and ORS 457.120 require that direct notice be sent (by a jurisdiction) to individuals or households within certain areas, in addition to the normal notice provisions of a jurisdiction for a public hearing on a new plan or substantial amendments.
- ORS 457.095 requires published notice of adoption of a substantial amendment.

C. Discussion

The statutory requirements are for public involvement in all stages of the development of an urban renewal plan and any substantial amendment(s). The ranges of involvement are shown in the sidebar.

The minimum required by statute is two opportunities for general citizenry review and input. First, the urban renewal substantial amendment and accompanying report are forwarded to the planning commission prior to presenting it to the governing body (city council or county commission) (ORS 457.095). The planning commission meetings are open to the public, and therefore, citizens have an opportunity for comment at this point in the preparation of a substantial amendment.

Approval of a substantial amendment by a governing body is by non-emergency ordinance (ORS 457.095). In most jurisdictions, this means two readings of the ordinance. The first reading is a public hearing that has been noticed to all citizens of the jurisdiction in accordance with ORS 457.120. The second reading does not typically include public testimony but can be at the discretion of the governing body.

The substantial amendment must also be sent to the governing body of all affected taxing jurisdictions and the urban renewal agency shall consult and confer with the taxing jurisdictions prior to presenting the substantial amendment to the governing body for approval (ORS 457.085)(5)). In addition to sending the substantial amendment by mail, the agency may also contact the taxing jurisdictions personally and may agree to present the plan to the taxing jurisdictions' boards if requested. ***See Section 2.7 on Impacts on Taxes Imposed by Overlapping Taxing Districts.***

The jurisdiction must publish notice of the adoption of a substantial amendment within four days of adoption.

The definition of substantial plan amendments is a major means of exerting policy direction over the implementation of an urban renewal plan. Local jurisdictions often express their sensitivity to particular urban renewal issues by defining changes in those activities as substantial amendments to the urban renewal plan. Alternatively, the jurisdiction can allow the urban renewal agency latitude in dealing with activities on which there is strong community consensus by not defining changes in such activities as substantial amendments.

D. Best Practices Tips

Public involvement for substantial amendments should mirror the involvement required for the adoption of an urban renewal plan as the statute requires the amendment to be adopted in the same manner as a plan.

5.3.2 PROCEDURAL REQUIREMENTS FOR APPROVAL OF SUBSTANTIAL AMENDMENTS

A. Background

To approve substantial amendments, a jurisdiction must go through the following procedural requirements:

1. Meeting by urban renewal agency

The urban renewal agency has the power to create an urban renewal plan (ORS 457.085(2)), and as a substantial amendment follows the procedures of plan approval (ORS 457.085(2)(i)), the agency also authorizes a substantial amendment.

2. Referral of the proposed plan to the planning commission for their review

Some planning commissions prefer to just review and make recommendations on the conformance issue, while others like to encourage the jurisdiction to approve the substantial amendment.

If the jurisdiction has a planning commission, the substantial amendment and report must be presented to the commission for its recommendation before the substantial amendment may be presented to the jurisdiction (city council or county commission) for approval.

The planning commission review is best done at a public hearing. The planning commission's formal role is not specified in the statutes. They generally are advised that their role should be to determine the conformance of the substantial amendment with the jurisdiction's comprehensive plan, as planning is the purview of the planning commission. Two separate motions may be presented to the planning commission, one that finds the urban renewal plan substantial amendment in conformance with the comprehensive plan, and the other that finds the urban renewal plan substantial amendment in conformance with the comprehensive plan and recommends approval of the substantial amendment by the municipality.

Some planning commissions want to just take the action to find conformance with the comprehensive plan while others want to further recommend approval by the city council.

Notice of the planning commission review should be done as for any planning commission meeting. No other notice provisions are required.

3. Consult and confer with the affected taxing districts

Sections 2.1 Public Involvement and **4.1 Public Involvement** detail other ideas about working with taxing districts.

The minimum level of interaction of the affected taxing districts is set out in the statutes. At a minimum, an agency must consult and confer with the affected taxing disticts. The substantial amendment and urban renewal report must be sent to the governing body of any taxing district that is affected by the urban renewal plan with an offer to consult and confer. (Taxing districts that levy taxes within the URA are affected taxing districts.) Any written recommendations of these taxing districts must be accepted, rejected, or modified by the jurisdiction (city council or county commission) in order to proceed with the substantial amendment. The requirements under this section are different if the urban renewal agency is requesting concurrence, as described in ORS 457.470.

4. Meeting with affected municipalities ORS 457.437

Prior to the establishment of a maximum amount of indebtedness in a substantial amendment to an urban renewal plan, the urban renewal agency that is carrying out the plan shall meet with the governing bodies of the municipality that activated the urban renewal agency, and other municipalities affected by the urban renewal plan, to review the proposed maximum amount of indebtedness for the plan. No formal action is required by the affected municipalities (ORS 457.085(5)). The meaning of this section is that a substantial amendment must

not only be presented to the enacting municipality, but also must be presented to the county commission for their information. Their vote is not required.

However, when any portion of the area of a proposed urban renewal plan extends beyond the boundaries of a city into any other municipality (city or county) and, in the case of a proposed plan by a county agency, when any portion of the URA is within the boundaries of a city, the governing body of the other municipality may approve the substantial amendment, and may do so by resolution rather than by ordinance (ORS 457.105).

5. Municipality public hearing/notice of hearing

Under provisions of ORS 457.120(3), notice of a proposed substantial amendment must include the following specific provisions:

- The governing body, on a specified date, will hold a public hearing and consider an ordinance substantially amending an urban renewal plan;
- The adoption of the substantial amendment may impact property tax rates;
- States the maximum indebtedness that can be issued or incurred under the substantial amendment;
- The ordinance, if approved, is subject to referendum; and
- A copy of the ordinance, urban renewal plan amendment, and urban renewal report can be obtained by contacting a designated person.

6. Notice requirements for a substantial amendment

The statutory requirements for supernotice are stated in ORS 457.120(1). Notice of the public hearing on adoption of the urban renewal plan amendment must be sent to individuals or households in one of the following groups:

- Owners of real property that is located in the municipality;
- Electors registered in the municipality;
- Sewer, water, electric, or other utility customers in the municipality; or
- Postal patrons in the municipality and any parts of the URA that extend beyond the municipality.

For county plans, the individual notice must be provided to one of the same groups within the boundaries of any K-12 school district that levies taxes within the URA. Counties must also provide notice in the paper of general circulation throughout the county in an advertisement not less than three inches in height and three inches in width in the general interest section of the newspaper (ORS 457.120(4)(b)). It must contain language identified in ORS 457.120(3)(a-e).

If a plan is both in a city and in a county, notice must not only be sent to the

requirements stated for a city above, but also be sent to each individual in the selected group that is located in the URA (ORS 457.120 (2)). This supernotice must contain specific language, as defined in ORS 457.120(3)(a-e) and stated in sub-paragraph 5 above.

7. Approval of a substantial amendment by the municipality

A substantial amendment is adopted by the governing body of the municipality (city council or county commission) by ordinance. The ordinance must be a non-emergency ordinance. There are specific requirements for the contents of the ordinance (ORS 457.095)(1)-(7):

- Each urban renewal area is blighted.
- The rehabilitation and redevelopment of the urban renewal area(s) is necessary to protect the public health, safety, or welfare of the community.
    - The urban renewal plan conforms to the comprehensive plan and economic development plan, if any, of the municipality. The plan must also provide an outline of planned urban renewal projects.
- Relocation requirements must be met.
- That any property acquisition called for in the urban renewal plan is necessary to achieve the objectives of the plan.
- That the plan is economically sound and feasible.
- That the city or county will assume any responsibilities given to it under the plan.

Presumed valid: Any plan adopted in conformance with all legal requirements shall be conclusively presumed valid 90 days after adoption of the urban renewal plan amendment by ordinance of the governing body of the municipality. No direct or collateral attack on the action may thereafter be commenced.

8. Hearing

At the public hearing on the ordinance, the governing body should hear the report and recommendations of the urban renewal agency, take public testimony, and consider the recommendations, if any, of the planning commission and of affected taxing districts. Any written recommendations of the affected taxing districts must be formally accepted, rejected, or modified.

9. Recording

A substantial amendment, along with a copy of the ordinance approving the substantial amendment, must be recorded with the recording officer of each county in which any portion of an URA within the urban renewal plan is situated. A copy of the plan should also be sent to the county assessor.

10. Notices

Notice of adoption of an ordinance approving a substantial amendment shall

be published within four days of adoption of the ordinance approving the amendment in a newspaper having the greatest circulation in the municipality and that is published within the municipality no later than four days following the ordinance adoption. If no newspaper is published in the municipality, the notice may be published in the newspaper of the closest published paper. The notice must say that the ordinance has been adopted and that 90 days after adoption of the plan amendment the amendment will be conclusively presumed to be valid. (ORS 457.095 and ORS 457.115)

D. Best Practices Tips

A jurisdiction should use an urban renewal professional or have staff with extensive urban renewal experience assist in the preparation of an urban renewal plan or a substantial amendment. If internal staff prepares the amendment to the urban renewal plan, it should also be reviewed by seasoned urban renewal counsel prior to adoption.

5.3.3 FINANCIAL ANALYSIS FOR SUBSTANTIAL AMENDMENTS

A. Background

When a plan is substantially amended, it requires additional financial analysis. The required analysis follows the same requirements as described in Section 4 for writing an urban renewal plan and report.

B. Statutory Provisions

ORS 457.420 to ORS 457.470 describe tax increment financing of urban renewal indebtedness.

C. Discussion

Amendments to urban renewal plans cannot increase maximum indebtedness by more than 20% of the original maximum indebtedness without obtaining concurrence (see sidebar definition).

All urban renewal plans adopted prior to January 1, 2010 that have not been amended to increase maximum indebtedness since that date are not subject to revenue sharing. When these plans are amended they will be subject to revenue sharing provisions. Amended plans will obey the same revenue sharing limits as described in **Section 2.7,** with one exception. The amount of TIF revenues collected by the URA in the first year in which the plan is substantially

Concurrence is defined as written concurrence of taxing jurisdictions imposing at least 75% of the amount of taxes levied under permanent rate limits in the URA.

Relevant distinctions:

- Concurrence refers to taxes, not tax rate
- Only taxes imposed under permanent rates are counted, not bonds or local option levies.

amended is known as the transition amount. If the transition amount is greater than the amount of TIF revenue that the URA would be able to collect under revenue sharing limits, then the URA receives annual TIF revenues equal to the transition amount. In short, the transition amount ensures that jurisdictions with amended plans that trigger revenue sharing will not see TIF revenues decline below their previous year's TIF collections due to revenue sharing.

D. Best Practices Tips

A jurisdiction should determine the type of plan it has, and the specific impacts associated with amending that plan, before underaking the amendment process.

6. Running an Urban Renewal Agency

Urban renewal agencies vary in their organizational structure, from single individuals assigned responsibility to run the urban renewal program, to portions of various individuals assigned other responsibilities within the organization that created the urban renewal agency collaborating to perform urban renewal projects and programs, to agencies that operate as purely separate entities, complete with staffing and separate boards. Irrespective of how the urban renewal agency is staffed or governed, as a separate entity, it is necessary for staff and the governing board to ensure they each fulfill the various legal requirements for the urban renewal agency on an ongoing basis.

CHAPTER CONTENTS

The chapter contains the following sections:

6.1 Establishing bylaws

6.2 Changing the form of agency governance

6.3 Public involvement

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6.5 Budget

6.6 Auxiliary uses of TIF funds

6.7 Program income

6.8 Debt and maximum indebtedness reporting

6.9 Performance measures

6.10 Leveraging TIF

6.11 Relocation

6.12 Acquisition/disposition of real property

6.1 ESTABLISHING BYLAWS

A. Background

As a separate and distinct entity, establishing bylaws for an urban renewal agency is a requisite organizing function.

B. Statutory Provisions

ORS 457.035 provides for the creation, choice to exercise power, and jurisdiction for urban renewal activities. ORS 457.170 and 457.180 further addresses specific powers of urban renewal agencies. No statute requires the adoption of urban renewal agency bylaws.

C. Discussion

An organization's bylaws are legally binding and detail how the organization is structured and governed. State law does not determine the content of bylaws for an urban renewal agency. However, many agencies find that bylaws assist in the orderly conduct of business. Urban renewal agencies are encouraged to review the bylaws on a periodic basis, or at least every three years, to ensure that they are consistent with the organization's operations.

D. Best Practices Tips

Best practices suggest that urban renewal agencies should establish bylaws that address general information, governing board information, officers, and fiscal matters. A complete list can be found in Appendix B.

6.2 CHANGING THE FORM OF AGENCY GOVERNANCE

A. Background

The municipality that sponsors an urban renewal agency may decide that the initial choice of governance body is undesirable. The governance body may be changed.

B. Statutory Provisions

ORS 457.055 allows the municipality to change the form of the agency's

governance body to any form allowed by statute.

C. Discussion

The governing body of the municipality may, by ordinance, transfer the authority of the urban renewal agency to any other body that may have been initially appointed to exercise the agency powers. These are: the governing body itself, the housing authority of the municipality, or a separate board consisting of at least three members. Examples influencing a change of governance could include a consistent lack of quorum, a practice of inability to make program or project decisions, or actions that are contrary to the objectives of the urban renewal plan.

D. Best Practices Tips

Changing the form of the urban renewal agency's governance body should be a carefully considered decision, taken only when in the best interest of completing the urban renewal plan.

6.3 PUBLIC INVOLVEMENT

A. Background

Public involvement is a key component of the ongoing administration of an urban renewal plan. Involvement needs range from providing transparency on the activities of the urban renewal agency to providing an opportunity for citizens to serve on a citizens' advisory committee to allowing the broader public to interact with the agency on a Facebook page. There is significant incentive for an urban renewal agency to establish an effort to engage the public. For example, the adoption of an urban renewal plan amendment goes much more smoothly when there is significant public support for the plan.

B. Statutory Provisions

There is one statutory requirement for public information in the ongoing administration of an urban renewal agency. The agency must file an annual report (ORS 457. 460). This report must be on file at the city or county (depending on the governing jurisdiction) to allow for public viewing and portions must be published in the newspaper at two separate times.

C. Discussion

Options for involvement while running an urban renewal agency include:

- A citizens' advisory committee to review decisions on the administration of the urban renewal plan, from input on the annual budgeting process to making recommendations to the urban renewal agency on policy issues such as potential amendments to the plan.
- Publishing more information in the annual report than is strictly required by the statute. Summarizing the projects of the previous year and identifying the public benefit, leverage of funding, private investment, and/or projected return on investment.
- Working with an established Main Street or business organization to review plan priorities.
- Publishing information about the urban renewal agency on the city webpage, including the adopted urban renewal plan and report and any current activities.
- Social media activities, including a Facebook and/or Twitter page for the activities of the urban renewal agency.
- Work with local newspaper to document success stories, giving credit to urban renewal.

The City of Astoria works directly with the Astoria Downtown Historic District Association on determining projects and priorities for urban renewal spending. Member of the city staff are on the ADHDA board and ADHDA board members are on City committees dealing with specific projects such as the planning for the Garden of Surging Waves as a cornerstone to the downtown. The Garden of Surging Waves will bring tourist activity to the Astoria Urban Renewal Area.

D. Best Practices Tips

When the URA is established, it should adopt a public involvement policy. The public involvement policy should be reviewed periodically to ensure it is meeting the needs of the community.

6.4 FINANCIAL REPORTING

A. Background

One of the key responsibilities of the urban renewal agency board is its fiduciary responsibilities. A key component of ensuring the financial integrity of the organization is regular and timely financial reporting, including management discussion and analysis of the agency's programs and projects.

There are three groups responsible for the quality of financial reporting: the governing board, financial management and staff, and the independent auditor. First among these groups is the governing board, due to its unique position as the ultimate responsibility for oversight of financial reporting processes.

Urban renewal agencies are component units of jurisdictions and the financial reporting function is generally performed by city (or county) staff. Also, a jurisdiction's auditor generally performs the audit function. Lastly, since the

agency is a component unit of the jurisdiction, the jurisdiction's governing board has the ultimate responsibility for oversight.

B. Statutory Provisions

ORS 297.405 – 297.555 provide the various statutory requirements for financial reporting of Oregon municipalities, including annual audits by independent auditors (ORS 297.425).

ORS 457.460 requires limited duplication of annual financial reporting and budgeting, and additionally requires reporting on the analysis of the impacts, if any, of carrying out the urban renewal plan on the tax collections for the proceeding year of the overlapping taxing jurisdictions.

C. Discussion

Presently, urban renewal agencies are preparing a separate report to meet the specific requirements of each statute noted above, although there is no requirement to do so. Additionally, most urban renewal agencies in Oregon do not provide management analysis and discussion of the agency's performance during the reporting period or projected activity during the ensuring period(s).

Also, many urban renewal agencies, like their jurisdictions, struggle to complete their audits and file their reports by December 31. As a result, the information from these valuable reports is not timely for decision-making and may be viewed by decision makers as mere compliance work rather than an integral element of strategic planning.

The City of Wilsonville specifically identifies project activity from the previous year in their annual report.

D. Best Practices Tips

Consistent with the Government Finance Officers Association recommended best practices for governmental accounting, auditing, and financial reporting practices, AORA urges each urban renewal agency to do the following to fulfill its financial reporting responsibilities:

- Maintain an accounting system adequate to provide all of the data needed to allow for the timely preparation of financial statements for the entire financial reporting entity in conformity with generally accepted accounting principles (GAAP);
- Issue timely financial statements for the entire financial reporting entity in conformity with GAAP as part of a comprehensive annual financial report (CAFR); and
- Have those financial statements independently audited in accordance with either generally accepted auditing standards (GAAS) or Government Auditing Standards (GAS), as appropriate.

Suggested financial reporting includes the following:

Monthly financial reports should be prepared and distributed in a timely fashion. The reports should be prepared at an appropriate level for the intended audience, e.g., board reports should be at a general level, with detail available as needed, while reports to management should provide greater detail. Board members, managers, and staff should review reports in a timely fashion and provide timely feedback on any discrepancies. The reports should provide explanations for significant variations to budget.

Quarterly financial reports should be prepared and distributed in a timely fashion. These reports should include an update on the urban renewal agency's activities, including, but not limited to, explanation of any significant variances, both financially and operationally. Reports should be prepared for the intended audience and recipients should provide timely feedback on any discrepancies.

Annual financial reports should be prepared, audited, and distributed in a timely fashion. The reports should include management discussion and analysis of activities in the reporting period and upcoming period(s). Although statutes require audited financial reports be submitted by December 31 each year, reports should be completed and distributed to users much earlier.

Additionally, consistent with the Government Finance Officers Association best practice recommendation, the municipality's governing board should appoint an audit committee to provide much needed independent review and oversight of the urban renewal agency's financial reporting processes, internal controls, and independent auditors. The audit committee should be the same committee that serves the municipality. Further details regarding this best practice is available at GFOA Best Practice - Audit Committees.[3]

AORA also suggests that urban renewal agencies consider consolidating the required reporting of ORS 457.460 with the annual audited financial report, or, in the absence of the ability to prepare and distribute, in a timely manner, annual audited financial statements, AORA suggests agencies consider participation in the Government Finance Officers Association (GFOA) Popular Annual Financial Reports program. These financial reports are more readable and usable by non-financial and regulatory readers. The required elements of ORS 457.460 may also be considered for consolidation in this report.

6.5 BUDGET

A. Background

The National Advisory Council on State and Local Budgeting (NACSLB) has

3 http://www.gfoa.org/index.php?option=com_content&task=view&id=1451

identified four essential principles of effective budgeting. The specific principles include:

- Set broad goals to guide decisions;
- Develop strategies and financial policies;
- Design a budget supportive of strategies and goals; and
- Focus on the necessity of continually evaluating a government's success at achieving the goals that it has set for itself (i.e., performance).

B. Statutory Provisions

ORS 294.305 – 294.565 provide the various statutory requirements for budgeting of Oregon public agencies.

C. Discussion

The Government Finance Officers Association has officially adopted the recommendations of the NACSLB. GFOA has also issued separate recommended practices on strategic planning and performance measurement. All of these documents underscore GFOA's long-standing support of strategic planning and performance measurement as part of the budget process.

Consistent with the NACSLB principles, a growing number of governments use the budgeting for results and outcomes approach. Rather than starting with the prior period's budgeted programs and activities, they begin with available revenues, continue by considering desired results and strategies, and then end by deciding which activities and programs can best achieve desired results.

This approach is a departure from the incrementalism often characteristic of budgeting. Budgeting for results and outcomes links strategic planning, long-range financial planning, performance measures, budgeting, and evaluation. It also links resources to objectives at the beginning of the budgetary process so that the primary focus is on outcomes rather than organizational structure.

D. Best Practices Tips

Consistent with the GFOA, urban renewal agencies should consider budgeting for results and outcomes as a practical way to achieve the NACSLB objective of integrating performance into the budgetary process. The steps below should help an agency make a successful transition:

1. Determine how much money is available. The budget should be built on expected resources. This would include existing revenue, any new revenue sources, and the potential use of fund balance and/or debt.
2. Prioritize projects. The results or outcomes that matter most to the success of the agency fulfilling its mission should be prioritized.

Budgeting for results and outcomes is not just a one-year exercise, but instead a multi-year effort that should improve the budget process.

3. Allocate resources among high priority projects. The allocations should be made in a fair and objective manner.
4. Conduct analysis to determine which strategies, programs, and activities will best achieve desired results.
5. Budget available dollars to the most significant programs and projects. The objective is to maximize the benefit of the available resources.
6. Set measures of annual progress, monitor, and close the feedback loop. These measures should spell out the expected results and outcomes and how they will be measured.
7. Check what actually happened. This involves using performance measures to compare actual versus budgeted results.
8. Communicate performance results. Internal and external stakeholders should be informed of the results in an understandable format.

6.6 AUXILIARY USES OF TIF

A. Background

Use of tax increment funds is limited to paying debt incurred for projects listed in ORS 457.170. In all cases, activities to be funded with tax increment funds must be included in the urban renewal plan. Even with the liberal interpretation of these projects that has evolved over the years, the project definitions are not infinitely expandable.

Jurisdictions sometimes ask urban renewal agencies to finance operating and maintenance costs associated with capital improvements financed by the agency or even to finance regular ongoing municipal service costs.

Another issue is whether tax increment funds can be spent for urban renewal agency staff. These questions include whether staff costs can be funded from tax increment bond proceeds and whether tax increment funds can pay staff for work not related to urban renewal. Questions sometimes arise regarding the expenditure of tax increment revenues generated within one URA for the benefit of another URA within the same jurisdiction. Finally, funds that an urban renewal agency may receive that are not tax increment funds should be considered.

B. Statutory Provisions

ORS 457.170 describes the projects allowed in an urban renewal plan.

C. Discussion

1. Expenditures on operation and maintenance

Expenditures of tax increment revenues on operation and maintenance of capital facilities and expenditures on municipal services (e.g., police) are not allowed. This generally applies to capital facilities that have been developed with tax increment funds. There are two distinct considerations. First, from a legal standpoint, redevelopment attorneys have stated that such expenditures are not authorized by statute and the powers cited above from ORS 457.170 do not specifically include operation and maintenance. Second, as a matter of practice, tax increment revenues are not an ongoing revenue source and should not be used to fund ongoing expenses. Such a practice, like fully funding citywide projects with tax increments funds, diverts the tax increment funds from other projects in the URA that will cure blighted conditions.

Exceptions however, may include expenditures for start-up operational costs of a capital facility developed with tax increment funds, because these costs are considered part of the capital budget. Property management costs relating to property acquired by the urban renewal agency prior to its disposition for development or redevelopment are allowed to preserve the property value.

Decisions about what constitutes a capital project and what constitutes a maintenance activity are often difficult to make. For example, is the overlaying of street pavement maintenance or a capital improvement? The urban renewal agency should use its best judgment to make these determinations about whether to include them as projects in the urban renewal plan.

2. Expenditures on urban renewal agency staff

The administrative costs of operating an urban renewal agency are appropriately funded from tax increment funds. If an agency borrows money, it needs to conform to compliance with the convenants in its bond documents. Examples of such covenants are continuing discolsure, restrictions on private use and limitations on additional borrowing. Alternatively, expenditures may be made from annual tax increment revenues, provided that such expenditures are used to repay debt incurred in paying staff and administrative costs. It is common that the staff of the sponsoring jurisdiction administer the urban renewal agency.

Costs include staff (salary and benefits), office space, office equipment and supplies, consultants' and attorneys' fees, and other miscellaneous costs of implementing the urban renewal plan.

3. Expenditure of tax increment funds for another URA

Tax increment revenues generated within one URA of a jurisdiction may not be expended for projects within another URA of the jurisdiction (ORS 457.440(6)(b)). Likewise, tax increment funds generated by debt in one URA may not be loaned to another URA. The proceeds of bonds are restricted to expenditure for projects in the URA that is generating revenue to pay the bonds.

D. Best Practices Tips

1. Expenditures of tax increment revenues on operation and maintenance of capital facilities (except as are included in a capital investment) and expenditures on municipal services (e.g., police) must be avoided.
2. When staff performs a mix of duties, including some unrelated to the URA, other funds should pay for the non-urban renewal duties.
3. If the urban renewal agency does not have exclusive staff or exclusive consultants/contractors dedicated to agency administration, then the agency should enter into an intergovernmental agreement (IGA) with the sponsoring jurisdiction that specifies the urban renewal duties, the percentage of time and costs that will be allocated to the URA, and the basis and time for payment of these costs. This allocation must be done on a reasonable basis, and should take into account the actual or estimated percentages of the services or supplies used by the urban renewal agency. The IGA becomes a debt instrument and the costs can be paid directly from tax increment revenue collections.
4. An urban renewal agency should not grant or loan tax increment funds from one URA to another.

6.7 PROGRAM INCOME

A. Background

From time to time, as a result of its urban renewal project activities, an urban renewal agency may acquire funds that are not the proceeds of debt and are not tax increment revenue distributed from the tax collector. These funds are called program income. Examples are proceeds from the sale of real property the urban renewal agency acquired and funds repaid by borrowers from an urban renewal plan loan program, such as a façade improvement program or a private property rehabilitation loan. Interest paid on tax collections paid into an URA's special fund under ORS 457.440(6) is not program income. The acquisition or expenditure of program income is not included when calculating maximum indebtedness.

B. Statutory Provisions

ORS 457.190 limits the use of grants or loans received by the urban renewal agency from third parties.

ORS 457.180 lists activities that an urban renewal agency may perform outside the projects in an urban renewal plan.

C. Discussion

Proceeds of grants or loans received by an urban renewal agency from third parties must be the "undertaking and carrying out of urban renewal projects."

Use of program income will be limited in the first instance by the covenants of any debt that produced the tax increment funds for the original urban renewal activity. Determining the limits is a case-by-case inquiry and bond counsel must be consulted.

Use of program income may also be limited by the terms of an urban renewal plan itself. A plan may provide that all income generated by the plan activities will be dedicated to debt repayment.

Finally, if not limited as stated above, program income may only be used for activities described either in ORS 457.170 (designated urban renewal projects in the plan) or ORS 457.180. The latter section gives an urban renewal agency the power to:

"457.180 Powers of urban renewal agencies in general. An urban renewal agency, in addition to its other powers, may:

> (1) Make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements.
>
> (2) Make plans for the enforcement of laws, codes and regulations relating to:
>
> > (a) The use of land.
> >
> > (b) The use and occupancy of buildings and improvements.
> >
> > (c) The repair, rehabilitation, demolition or removal of buildings and improvements.
>
> (3) Make plans for the relocation of persons and property displaced by an urban renewal project.
>
> (4) Make preliminary plans outlining urban renewal activities for neighborhoods to embrace two or more URAs.
>
> (5) Conduct preliminary surveys to determine if the undertaking and carrying out of an urban renewal project is feasible.
>
> (6) Develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and the elimination of urban blight.
>
> (7) Engage in any other housing or community development activities specifically delegated to it by the governing body of the municipality including but not limited to land acquisition and disposition, conservation and rehabilitation, residential or business relocation,

construction, leasing or management of housing, and the making of grants and loans from any available source."

D. Best Practices Tips

1. Use of program income is a case-by-case inquiry and urban renewal agency counsel and bond counsel must be consulted.
2. If allowed at all, an urban renewal agency should use program income for non-plan related activities only pursuant to official action to spend such funds within the agency budget.
3. Using program income for housing or community development activities specifically delegated to an urban renewal agency by the governing body of the jurisdiction should be based only on official governing body action expressing delegation.

6.8 DEBT AND MAXIMUM INDEBTEDNESS REPORTING

A. Background

Every urban renewal plan must include a statement of maximum indebtedness. Additionally, limitations related to future urban renewal plan amendments to increase maximum indebtedness and future potential revenue sharing with the affected taxing districts necessitate periodic review of the status of remaining maximum indebtedness relative to the remaining projects and activities to implement and complete the plan.

B. Statutory Provisions

ORS 457.450 (2) states that tax increment funds are to be collected until the urban renewal agency's maximum indebtedness is fully paid or sufficient tax increment funds have been collected to retire the maximum debt.

C. Discussion

Additional considerations relative to maximum indebtedness for urban renewal agencies include:

Maximum indebtedness is stated in actual dollars at the time debt is issued; therefore, the timing to incur indebtedness and make expenditures becomes more important. In other words, as a result of inflation, dollars spent today likely

will accomplish more than the same dollar spent at a later date.

To more effectively manage available resources including debt, an urban renewal agency must understand its debt capacity at any given time to better plan capital investment.

D. Best Practices Tips

An urban renewal agency should annually track and report the status of its maximum indebtedness and its expenditures relative to its urban renewal plan. Maximum Indebtedness includes all money spent on projects, programs, and adminstration of the plan. It does not include indebtedness incurred to refund or refinance existing indebtedness, nor does it include interest payments.

6.9 PERFORMANCE MEASURES

A. Background

Measuring the impact of an urban renewal area should be an integral part of an urban renewal agency's annual reporting process, as well as the jurisdiction's overall communications program. Urban renewal, by definition, should help attract and retain jobs, build housing, grow businesses, remove blight, and accomplish many other positive things. Identifying and quantifying these impacts should be a part of each urban renewal agency's mission. This section of the document discusses potential conditions that could be measured and suggests several strategies for conducting that analysis.

B. Statutory Provisions

There are no statutory requirements for performance measures.

C. Discussion

Before attempting to measure a project's impact, it is important to understand the distinction between direct and indirect impacts and which of these should be measured and reported. Direct impacts are those that are directly connected to the urban renewal investment itself, such as the number of apartments built as part of a project supported by TIF funding. Indirect impacts could include a range of benefits, such as the increased retail activity that might take place within a district due to the new residents that live in the apartment building.

There is no best practice for whether direct or indirect impact analysis is the most appropriate—it will depend on local circumstances. Direct impacts tend

to be the easiest to measure (and explain), but may significantly understate the value of an investment to a community. Likewise, indirect impacts may present a fuller picture of the benefits of a project, but are harder to measure.

In addition to measuring the impacts from specific urban renewal investments, it is useful to catalog all new investments in the URA in order to ensure that indirect impacts are captured. By identifying these projects, and even mapping them, patterns of investment momentum can be demonstrated, which can often help tell the story of how urban renewal facilitates revitalization and private sector development.

Some specific areas that are good indicators of an URA's performance and might be included in a performance measurement process, include:

- ***Tax base growth:*** This is the most fundamental assessment of the success of an URA and should be included in every annual report.
- ***Leverage ratio:*** See Section 5.2.3.
- ***New housing units***: Measure and map the location of new housing built in the URA. In smaller districts, project staff will likely be aware of all new projects, but in larger districts reviewing building permit data might be necessary.
- ***New businesses and employment:*** Jobs are one of the most important indicators of a community's health. Identify new businesses that have located in the URA, especially those that are the direct result of an urban renewal project.
- ***Retail activity:*** For downtown and business district-based URAs, increasing retail activity and reducing storefront vacancies is an important measure of success. Since Oregon does not have a sales tax, it is difficult to directly measure retail sales activity. While it can be estimated from some proprietary economic databases, similar information can be attained from a survey of building vacancies, interviews with merchants, and partnering with business associations
- ***Major projects:*** Identifying and mapping the location of major projects, both public and private, can be instrumental in telling the big picture story of an urban renewal plan's success. From an analytical point of view, mapping can also highlight patterns of investment that might indicate the catalytic effect that certain urban renewal investments have had on private investment in the URA.

The specific methodology for measuring each element will vary from community to community, where the availability of data will range from robust to minimal. While there can be no standard methodology that will work for all communities, the best practice is to clearly document what is being counted and from where the data has come. This helps to answer questions from stakeholders, the media, and elected officials, and it also helps to document for

future urban renewal agency staff how to update the information over time.

D. Best Practices Tips

Measuring the performance of an URA should be done integrally with the annual reporting process. Maintaining templates and other types of standardization will help in the measuring of performance across years and over the life of the urban renewal plan. In all cases, information sources should be clearly documented in order to answer possible questions and assist others in updating the information over time.

Finally, the presentation format should be such that it is easily readable and can serve as a communications tool—telling the story of the URA's success. For examples of potential performance measures, see Section 6.9 (C).

6.10 LEVERAGING TIF

A. Background

Leveraging TIF means increasing the impact of urban renewal dollars by attracting a matching amount of private investment. Indeed, the financial model of tax increment financing requires new private investment in order to generate the new taxes over the frozen base. Leverage can be measured in terms of a leverage ratio—the ratio of private investment (in a project, district, or any other defined area) to public investment. While there are no hard and fast rules for an appropriate leverage ratio, many districts have been able to achieve ratios of five or ten to one or higher. That is, for every dollar of public investment, the jurisdiction has seen five or ten dollars of private investment.

Lake Oswego's Lake View Village was a joint partnership of the Agency and a private developer. The Agency provided funding for the parking garage while the developer funded the building construction.

B. Statutory Provisions

There are no statutory requirements for leveraging TIF.

C. Discussion

1. Leveraging Private Financing

TIF can help leverage private funding by being the gap financing that completes a financing package for a project. In an era of increasingly challenging financial markets, the need for gap financing to make innovative projects possible is increasing. These types of contributions can be structured as grants, loans, and guarantees. Public-private partnerships and development agreements can be

structured so as to manage the amount of risk that the urban renewal agency is willing to take.

2. Leveraging Public Funding Tools

TIF can be most effective when it is paired with other funding tools. Particularly for grants, TIF can represent a critical local match that can bring in outside resources several times the size of the local contribution. In addition to grants, TIF can leverage other public funding tools such as Housing and Urban Development Sec 108 tax credits (Housing Tax Credits, New Market Tax Credits, Low Income Housing Tax Credits, etc.).

3. Leveraging Property Acquisitions

An urban renewal agency can leverage TIF by acquiring properties and then writing down the value of the land when selling to a private developer. This can leverage private investment by reducing the holding costs for a developer (they don't have to buy the land until they are ready for development) and by reducing the cost of the land, which reduces the overall project costs.

4. Leveraging Shared Infrastructure

TIF is leveraged when a particular investment can be used to support multiple private investments around it. A shared parking garage, a public plaza, and utility upgrades are investments that can have benefits for multiple adjacent and nearby properties for many years to come. Conversely, leverage will be limited when the TIF investment is in a project or location that has little opportunity to benefit other projects in the future.

There are many factors that will change over the course of a plan that may influence the spending and action priorities of an urban renewal agency. Changing market conditions, the departure of a major employer, economic cycles, new zoning and other policies, demographic shifts, and many, many other factors will affect the specific projects an urban renewal agency will pursue in any given year.

5. Strategic Planning

Strategic planning is a process where an urban renewal agency (or its city or county) works with stakeholders to analyze conditions and update its priorities. The resulting strategic plan can then feed into the urban renewal agency's annual budgeting process to prioritize investments. In some cases, the strategic plan may even lead to recommended plan amendments.

Since an urban renewal plan identifies projects to be implemented over the life of an URA (sometimes longer than 20 years), it usually cannot provide the type of specificity to guide annual priorities, budgeting, and actions on a year-to-year basis, especially in the later years of a district.

The benefits of a strategic plan are that it allows an agency to adjust to changing conditions, provides an avenue for ongoing community input and the cultivation of project champions, and reflects a proactive rather than reactive approach to project identification and prioritization.

D. Best Practices Tips

Through strategic planning and individual project analysis, an urban renewal agency can leverage TIF in order to maximize its return on investment.

6.11 RELOCATION

A. Background

An urban renewal agency that undertakes projects that displace residents or businesses is obligated to temporarily or permanently relocate those residents and/or businesses. Though requirements for relocation programs are set out in some detail in the Oregon Revised Statutes, an urban renewal agency is sometimes faced with situations in which it is unclear whether residents and businesses are displaced by agency projects or by the anticipation of possible agency projects in the future.

B. Statutory Provisions

ORS 457.085(3)(i) requires a relocation report in the urban renewal report accompanying the approval of the urban renewal plan.

ORS 35.500 to 35.530 sets out the state mandated procedures for relocation.

The Oregon Department of Transportation has adopted a set of such regulations that several urban renewal agencies have used as a model. In addition, there are expert consultants who will assist in relocation matters.

C. Discussion

An urban renewal agency is required to include a relocation report in the urban renewal report accompanying the approval of the urban renewal plan. The report must analyze the need for relocation of residents and businesses, describe the methods to be used in relocation (which must conform with ORS 35.500 to 35.530), and enumerate by cost range the existing housing units that are to be demolished, altered, and/or new units to be added.

- Sometimes, a property owner or tenant moves before the urban renewal agency acquires a property.
- In some cases, the urban renewal plan does not contemplate property acquisition or the need for resident or business relocation.
- A property owner has the right to relocation benefits whether the transaction is voluntary or involuntary.
- Relocation benefits may not be waived except in writing.

D. Best Practices Tips

- For plans that include acquisition and relocation, an urban renewal agency should adopt formal and complete relocation regulations that conform to statutory requirements and the Uniform Relocation Act.
- For plans with no acquisition, an urban renewal report may include a statement that, if property acquisition is later included in a plan by amendment, then relocation regulations will be adopted before acquisition activities begin.
- An urban renewal agency should use reasonable efforts to determine whether residents or businesses have been displaced as a result of a property owner anticipating possible future acquisition of the property by the agency. In such cases, the agency should determine to what extent, if any, relocation benefits should be provided to the residents or businesses.

6.12 ACQUISITION/DISPOSITION OF REAL PROPERTY

A. Background

Some of the more significant powers of urban renewal agencies are their ability to acquire land for redevelopment and their ability to dispose of such property for its fair reuse value. Urban renewal agencies can sell or lease property for less than fair market value under certain circumstances. Fair market value is based on highest and best use of a property. Fair reuse value takes into consideration restrictions on the use or type of uses that may be developed or redeveloped on the property and other limitations imposed by the urban renewal plan that may affect the property's value. The fair reuse value of a particular property may be $0 if the urban renewal plan provisions warrant.

B. Statutory Provisions

ORS 457.170(3) allows the urban renewal plan to include the acquisition of real property as a project if it is necessary to carry out the plan.

ORS 457.230(1) allows the urban renewal agency to dispose of real property for fair reuse value.

ORS 457.230(2) requires that an urban renewal agency, upon sale or lease of land for redevelopment, require that the purchaser use the land for purposes called for in the urban renewal plan and begin the improvements within a reasonable period of time.

C. Discussion

An urban renewal agency may acquire land when needed to carry out the urban renewal plan. However, an agency may not acquire property by condemnation (involuntarily) if the property is to be transferred to another private party for redevelopment. There are no limitations on the purchase price for property, either minimum or maximum, with purchase price being determined by negotiation. Note that an urban renewal agency may still use condemnation for public improvement projects and to cure certain blighted conditions within the URA.

An urban renewal agency will make land available for redevelopment at its fair reuse value, "which represents the value, whether expressed in terms of rental or capital price, at which the urban renewal agency in its discretion determines such land should be made available in order that it may be developed, redeveloped, cleared, conserved, or rehabilitated for the purposes specified in such plan" (ORS 457.230). The fair reuse value of a property is determined by the urban renewal agency in its discretion, but is based on an analysis of the value of the property as encumbered by the requirements of the urban renewal plan. The use of an independent expert to determine fair reuse value will assist the urban renewal agency in understanding and defending a fair reuse value determination during the public discussion.

Because of statutory requirements noted above, the urban renewal agency must have a contract with the property purchaser to comply with the statute. Urban renewal agencies commonly use a disposition and development agreement (DDA) for the transaction, which may include other conditions for redevelopment in the discretion of the agency.

The particular process used for disposition by an urban renewal agency is a matter to be determined by the agency. An agency may consider competitive processes, in which any interested party is invited to submit either a proposal or letter of interest are desirable. Such processes can result in a wider range and higher quality of development proposals and higher economic returns for the URA. Competitive processes also help ensure that the urban renewal agency is treating all potential purchasers or lessees of agency-owned property in a fair and equitable manner.

Often urban renewal agencies offer land for sale or lease using solicitation processes such as a request for proposals (RFP) or request for qualifications (RFQ), whereby interested purchasers or lessees propose development plans and schedules for the property, which are in turn evaluated by the urban renewal agency according to criteria it has established. Such proposals may or may not include a proposed purchase price for the property.

A RFQ can have several benefits over a RFP. A RFQ, properly designed, is a method whereby the urban renewal agency would solicit interest from qualified parties. Those parties would be responding to an informational package that outlines the urban renewal agency's expectations and goals for the project while

requesting detailed documentation of the development team's experience and financial capabilities. It is far more important to select the right partner with whom the agency can work to design and implement the right project. With an RFP, the process is often nothing more than a beauty contest where submittals are designed to win but haven't received the scrutiny of detailed planning. Therefore, the final product rarely looks like what was initially promised. An RFQ, on the other hand, directly addresses the need to select the right people with a demonstrated history of success to become the urban renewal agency's partner. With the right team in hand, the agency and developer can confidently work through the many complex details of a physical and business plan to reach a deal and break ground on construction.

In some cases, urban renewal agencies solicit statements of qualifications or letters of interest, and based on subsequent evaluation, enter into exclusive negotiating agreements with one party to negotiate a disposition and development agreement for the property.

Urban renewal agencies can also achieve their redevelopment goals in cases where a private or non-profit entity owns land adjacent to an agency-owned parcel. In these cases, it can be beneficial to enter into a direct development agreement with that entity and avoid a formal solicitation process.

D. Best Practices Tips

1. Acquisition procedures

An urban renewal agency should obtain an appraisal of property before undertaking negotiations for property acquisition. An appraisal is required if the property is to be condemned. Condemnation can only take place if reuse of the property is for public purposes.

The urban renewal agency acquisition procedures (including relocation rules) should be in writing to inform the agency and the public of the process and support its integrity.

2. Fair reuse value

For properties of substantial value, such determination should be based upon an independent appraisal of the property. The appraiser should be instructed to determine the property's fair reuse value and should be asked to thoroughly investigate and take into account any and all restrictions imposed on the property by the urban renewal plan and the DDA.

3. Offering property for purchase

In general, a competitive process of some kind should be used to dispose of property.

If urban renewal agency property is specially related in some way to property controlled by a potential purchaser, the agency should consider the benefits of an exclusive negotiation for sale of the property.

When possible, an urban renewal agency should utilize an RFQ process to select developers for property that is being disposed. With proper criteria to evaluate bidders, the agency can be assured that the design process will result in a project that meets its goals, financial objectives, and community aspirations.

7. Closing an Urban Renewal District

The presence of termination or expiration dates in urban renewal plans reflects the concern of citizens and the governing body that the urban renewal plan should have a finite duration. Though termination dates commonly exist in older plans, the specific meaning of the termination or expiration date (i.e., what exactly ends on the termination date?) is not generally clear. It could refer to the retirement of debt and corresponding termination of collection of tax increment funds, the completion of all projects, and/or the expiration of other provisions in the plan.

7.1 PLAN TERMINATION

A. Background

Many urban renewal plans have termination or expiration dates. Some mature plans have a "date after which no debt will be issued," which is a likely holdover from a former statutory requirement for such dates.

B. Statutory Provisions

There are no statutory provisions for plan termination.

C. Discussion

The fact that some mature plans have a date after which no debt will be issued is a likely holdover from a former statutory requirement for such dates. There are no longer statutory requirements for urban renewal plans to have termination dates. ORS 457.085(3) requires that urban renewal reports contain the anticipated completion dates for each project and the anticipated year in which debt will be retired, however, this is not considered a termination date for a plan.

The concept of maximum indebtedness as a limit on plan duration has generally replaced termination dates in urban renewal plans. See **Section 7.2,** below.

D. Best Practices Tips

Although establishing a termination date for an urban renewal plan is optional, it is an important consideration for some citizens. If it is included, an urban renewal plan should specify which actions would end at the termination date. Options include:

- All projects will be completed, but tax increment revenue collection will continue.
- No new projects will be undertaken, but tax increment revenue collection will continue.
- No new debt will be issued, but tax increment revenue collection will continue.
- Tax increment debt will be retired and tax increment collections will cease. This limit should be used cautiously, given the predictability of tax increment revenue collection, and it is not necessary since maximum indebtedness already determines when tax increment revenue collections will cease.

CHAPTER CONTENTS

This chapter contains the following sections:

7.1 Plan termination

7.2 Termination of tax increment collections

7.3 Termination of an urban renewal agency

- Land use restrictions and special design guidelines will expire. However, it is uncommon now for urban renewal plans to contain either type of provision, relying instead on zoning and comprehensive plan provisions or private covenants, conditions, and restrictions (CC&R's). Note that an urban renewal agency can cause covenants and conditions on the use of land purchased from the agency for redevelopment to run with the land. These may continue in effect after the termination date of a plan.
- The urban renewal agency having disposed of real and other property owned by the agency.

Terminating an urban renewal plan should be done by express action of the urban renewal agency through a resolution. The resolution should be accompanied by a closing report summarizing the effects that the plan had in terms of projects and finance.

7.2 TERMINATION OF TAX INCREMENT COLLECTIONS

A. Background

Collection of tax increment funds for every urban renewal plan is limited by the plan's stated maximum indebtedness.

B. Statutory Provisions

ORS 457.450(2) requires the urban renewal agency to notify the assessor to terminate the collection of tax increment revenues when the urban renewal plan's maximum debt is, or can be, retired.

C. Discussion

An urban renewal agency is required to notify the assessor when the principal and interest on the maximum indebtedness of an urban renewal plan to which tax increment collection is pledged is fully paid, or it is found that deposits in the special fund for tax collections for that plan are sufficient to fully pay principal and interest on the maximum indebtedness, either through direct payment of the indebtedness or by payment of principal and interest on bonds or notes issued to finance the indebtedness. Upon notification, the assessor will discontinue dividing the taxes for tax increment purposes in all future tax years. The tax increment collections will be terminated permanently, and all taxes collected on the full assessed value of the property in the URA will be collected by the overlapping taxing districts.

The urban renewal plan may continue after tax increment collections are terminated. The urban renewal agency may continue the projects under the plan with the funds available after the tax collections cease, or, the urban renewal agency may terminate the plan if all activities are complete, or if the agency determines it will not complete some plan activities. See Section 7.1 above.

After the urban renewal plan itself is discontinued, and if any tax increment proceeds remain in the special fund of the plan and all maximum debt is provided for, those proceeds are distributed pro rata to the overlapping taxing districts.

D. Best Practices Tips

The analysis to determine whether or not the deposits in the special fund holding tax increment collections are sufficient to pay the maximum indebtedness should be made annually, within the agency's budget process.

Notification to the assessor should be made as soon as the budget process is complete, or at the end of the fiscal year, but in no event later than the date required for filing of the UR-50 form by which the urban renewal agency would have requested tax increment division amounts from the assessor in the following fiscal year. Notification should be in writing.

7.3 TERMINATION OF AN URBAN RENEWAL AGENCY

A. Background

If the governing body of a jurisdiction with an urban renewal agency decides that there no longer exists a need for an agency in the jurisdiction, the governing body shall provide, by ordinance, for a termination of the agency and a transfer of the agency's facilities, files, and personnel to the jurisdiction.

B. Statutory Provisions

ORS 457.075 allows the municipality that activated its urban renewal agency to terminate the agency.

C. Discussion

The termination of an urban renewal agency does not affect any outstanding legal actions, contracts, or obligations of the agency. The jurisdiction shall be substituted for the agency and, for the purpose of those legal actions, contracts,

or obligations, shall be considered a continuation of the agency and not a new entity.

However, no urban renewal agency may be terminated unless all indebtedness secured by tax increment collections is fully paid.

D. Best Practices Tips

An urban renewal agency and its governing body should inventory all the assets and liabilities of the agency and the jurisdiction should be confident that it has the resources to satisfy any continuing obligations of the agency.

The ordinance terminating the urban renewal agency should include reference to the inventory described above.

If there is outstanding tax increment debt, the urban renewal agency cannot be terminated.

Appendix

A. Determining the type of plan

B. Suggested bylaws contents for urban renewal agencies

C. Barriers to Development

D. A Letter from the Taxing Districts

Appendix A: Determining the Type of Plan

Oregon state statutes pertaining to urban renewal provide for several different types of urban renewal plans, depending on the date on which the district was formed or amended. The impacts of a substantial amendment are different depending on the type of plan. The statutes allow for a variety of urban renewal plans: "Existing: Option One, Two, or Three," "standard rate," and "reduced rate" plans. The provisions for collection of taxes under Option One, Two, and Three plans may not be changed. Existing plans are plans that provide for a division of ad valorem property taxes under ORS 457.420 to 457.460 adopted by ordinance before December 6, 1996.

Table A-1. Types of Plans

TYPE OF PLAN	ADOPTION DATES	FUNDS FROM	CONSEQUENCE OF SUBSTANTIAL AMENDMENT
Reduced Rate Plan	On or after October 6, 2001	Permanent rate levies only	May be subject to revenue sharing, MI caps
Reduced Rate: Existing Plan Option 1	Prior to December 6, 1996	Full amount of Divide the Tax revenue plus Special Levy	Loses right to Special Levy. May not collect Local Option or Bond approved after October 6, 2001 and may be subject to revenue sharing, MI caps
Existing Plan Option 2 (none in existence as of Jan 2012)	Prior to December 6, 1996	Special Levy	May be subject to revenue sharing, MI caps
Existing Plan Option 3	Prior to December 6, 1996	Fixed amount of Divide the Taxes plus Special Levy	May be subject to revenue sharing, MI caps
Standard Rate Plan	On or after December 6, 1996, before October 6, 2001	Permanent rate plus rates for GO bonds and local option levies	May be subject to revenue sharing, MI caps
Standard Rate	Adopted before December 6, 1996	Permanent rate plus rates for GO bonds and local option levies	City or county may make irrevocable request to Assessor to become a Reduced Rate Plan

Option One urban renewal plans must be existing plans that were formed prior to December 6, 1996 and must have chosen Option One prior to July 1, 1998. Option One allows for the collection of funds from ORS 457.440 (Divide the Taxes Revenue). If the amount is not sufficient to meet the budgeted obligations of the plan for the tax or fiscal year, the agency must make a special levy in the amount of the remainder upon all taxable property of the jurisdiction that activated the urban renewal agency, and all property outside the jurisdiction, but included in the boundary of the area of the plan.

Option Two must be existing urban renewal plans that were formed prior to December 6, 1996 and must have chosen Option Two prior to July 1, 1998. Option Two plans allow for the making of a special levy in the amount stated in the notice in ORS 457.440 upon all taxable property of the jurisdiction that activated the URA, and all property outside the jurisdiction but included in the boundary of the area of the plan.

Option Three must be existing plans that were formed prior to December 6, 1996 and must have chosen Option Three prior to July 1, 1998. These urban renewal areas may collect a fixed amount of Divide the Taxes Revenues and may receive an allocation of a citywide special levy. The amount of this levy may not be changed.

Substantial amendments will cause an urban renewal plan to lose its existing plan status, resulting in the loss of the special levy in accordance with ORS 457.010(5)(a)(A). Therefore, if an existing plan is amended, it will then be changed to a reduced rate plan.

Standard Rate plans must have been formed or amended on or after December 6, 1996 but before October 6, 2001. The applicable tax rate used to calculate the Divide the Taxes Revenues is comprised of the permanent rates of the taxing jurisdictions overlapping the urban renewal area, the local option levies, and general obligation bond levies.

Reduced Rate plans are those formed or amended on or after October 6, 2001. The applicable consolidated tax rate for Reduced Rate plans is comprised of only the permanent rates of the taxing jurisdictions overlapping the urban renewal areas, and local option and general obligation bond levies approved prior to October 6, 2001. Local option and general obligation bond levies approved by the voters on or after October 6, 2001 are excluded from the applicable tax rate.

Additionally, there are some limitations on urban renewal plans first adopted or amended after January 1, 2010, that can only be exceeded with concurrence from affected taxing districts. Specifically, a jurisdiction must obtain written concurrence of taxing districts imposing at least 75% of the amount of taxes imposed under permanent rate limits in the urban renewal area.

Actions that require concurrence include:

- Establishing an urban renewal plan with maximum indebtedness exceeding the limits established in ORS 457.470.
- Computing the division of taxes for an urban renewal area that exceeds the limits imposed by "revenue sharing" legislation described in ORS 457.470(2) and ORS 457.470(4).
- Amending an urban renewal plan to increase maximum indebtedness beyond the limits established in ORS 457.420(3) and ORS 457.470(5).

Appendix B: Suggested Bylaw Contents for Urban Renewal Agencies

General Information

- Official name of the organization
- Primary office location
- Agency's purpose(s)
- Procedures for amending the bylaws

Governing Board Information

- General powers of the governing board
- Number of board members
  - Members' backgrounds (e.g., real estate, development, finance, two outside directors, etc.)
- Terms and term limits of members
- Nomination and election of members
- Resignation of members
- Removal of a member (e.g., with or without notice, failure to attend three consecutive meetings, etc.)
- Process for filling vacancies
- Notice required for board of members' meetings

- Frequency of meetings and meeting procedures (e.g., four per year)
- Quorum requirements
- Descriptions and powers of standing committees (if any)
- Meeting procedures (e.g., actions without a meeting, meeting by telephone, etc.)
- Action taken without a meeting (e.g., consent in writing to waive a meeting, vote, etc.)

Officers

- Qualifications for holding office
- Duties of officers (e.g., chair, vice-chair, secretary, and treasurer)
- Process for selecting or appointing officers
- Terms and term limits (if any)
- Provision for a executive director (if not an officer)
- Circumstances under which officers may be removed
- Fiscal Matters
- Audit (only needed if different from the statutory requirement)
- Indemnification and insurance
- Purchasing (contracting)
    - Should be consistent with municipal organization
- Investments (only needed if different from the jurisdiction entity or statutory requirements)

Special Note: It is not necessary for an organization's bylaws to specify rules of order. However, if they do specify rules of order (e.g., Robert's Rules of Order), then the organization should be very careful to follow those procedures. Any action taken by the board that does not follow those rules of order may be vulnerable if challenged.

Appendix C: Barriers to Development

In the operation of an urban renewal district, many unforeseen issues can arise that can complicate the urban renewal plan and require course corrections and changes along the way. This is inevitable given that most urban renewal plans require 20 or more years to complete. This section highlights several of the most common types of barriers to implementation that can arise and it provides some strategies that an urban renewal agency can use to avoid the barriers, or mitigate them if they cannot be avoided.

The potential barriers are organized into several categories: Political/Policy, Physical, Economic, Financial:

A. Changing board political/policy or council priorities. Over the life of an urban renewal district, a city council or urban renewal board will change, and along with that change their priorities as to the types of projects that they want to fund may also change. This is inevitable. Sometimes these changes will be for very good reasons (new economic conditions, community aspirations, or other factors) and at times they may seem capricious and merely based on opinions or special interests. In either case, the best strategy for urban renewal agency staff is to provide the board with good information on which to base its decisions. This means being able to point to existing plans and policies that support the desired investments, financial and economic analyses to demonstrate the positive impacts that the projects will have, and producing annual reports that clearly communicate the pattern of success and interconnectedness of the projects identified in the original plan.

B. Community opposition. Despite the public involvement that goes into the formation of an urban renewal area, new opposition may arise from the community when it comes time to implement specific projects. As with changing board or council priorities, the reasons for opposition to projects may be well-grounded or they may be very narrow or self-serving. There are no silver bullets to avoiding community opposition to projects, but it is always advisable to conduct outreach early and often in order to understand where potential opposition might lie. In this way, the community will be informed about the reasons for (and benefits of) the proposed project, educated about the policy support for the project, and ensured that there are no surprises when the project is brought to the board. Likewise, many staff seek out project advocates in the community who can support the urban renewal agency in communicating the project's benefits to others.

C. Outdated regulations. Do not overlook that urban renewal projects must meet zoning and building codes like every other type of project. Often, especially in an older downtown, issues related to historic buildings, parking codes, mixed-

uses (allowances or prohibitions), and numerous other issues can add additional hurdles to making projects possible. Coordinating urban renewal planning with other planning efforts is essential.

Physical

- ***Environmental remediation***. Sometimes the costs of environmental remediation needed to implement a project are higher than anticipated during the planning process (or such remediation was not even anticipated). Better project analysis in the planning stage can help avoid these situations, but particularly as it pertains to environmentally contaminated sites, such surprises cannot always be avoided. If this occurs, options can include re-scoping the project to reduce overall costs or pursuing brownfield remediation grants and other sources of project funding.
- ***Off-site impacts.*** As with environmental remediation, some project costs may not be known until project implementation has already begun. These can often include off-site impacts, such as traffic impacts (and associated mitigation costs), wetlands mitigations, historical impacts, view corridors, and other factors. Again, there is no single solution to avoiding this situation, but it speaks to a need to plan for project costs beyond the direct costs of the project construction itself.
- ***Building barriers.*** Many buildings within URAs that need rehabilitation are plagued with challenging and expensive obstacles, such as seismic and asbestos problems. Often the extent of these maladies in older buildings isn't clear until after work on them has already begun. This can create situations where private and public (TIF) resources that were committed to the project are no longer sufficient to complete it. While establishing a contingency fund in advance can help mitigate the financial impact, this is sometimes still insufficient. These circumstances usually bring the public and private partners back to the table to work out viable solutions.

Economic

- ***Changing Market Conditions.*** Regardless of the financial boost given to a project by urban renewal, it will not be successful if there is not market demand for the target users of the project upon completion – be they apartment tenants, office users, or industrial businesses. Without demonstrated demand for the type of space to be built, the space will stay empty or perform below financial targets and it may compete with nearby properties, diluting the overall economic impact. Successful urban renewal projects should be based on a sound market analysis and urban renewal agencies should be ready to delay (or accelerate) timelines to address evolving market conditions. Likewise, public-private partnerships should have provisions to relieve developers of certain obligations if

market conditions do not support ongoing investment.

- ***Property Ownership.*** Blighted properties that an urban renewal agency is targeting for redevelopment may be owned by an entity that is unwilling or unable to sell it to the agency or a developer. Since urban renewal agencies can no longer condemn properties for private reuse, agencies are left with three options:
  - Try to work with the existing owner on rehabbing the target property so that it is not as great of a detriment to the URA.
  - If viable, work around the blighted property, and continue trying to address it in the future.
  - Explore whether the blighted property can be redeveloped for public use (e.g., plaza, parks, public parking, etc.), in which case it could be acquired through condemnation.

Financial

- ***Slow TIF Growth.*** Particularly in the early years of an URA, there may be little increment created, meaning that there is little capacity to fund projects. This is a common situation that cannot be avoided. Financial projections should be carefully reviewed to ensure that they are realistic about the types of projects that may be built in the early years and the amount of new increment that they will generate. If growth is slow, the URA or the jurisdiction may want to find other sources of funding to ensure that projects can move forward early, starting the momentum that will create greater increment over the long term.
  - It may be necessary or desirable to utilize other funding sources, such as utility resources (existing or debt), to stimulate activity within an URA, with subsequent repayment of those resources from future tax increment.
- ***Demolitions.*** An often-overlooked problem is the demolition of structures in a district or the departure of a major user. When an URA has a relatively large portion of its taxable value based in just a handful of properties, it becomes vulnerable to negative growth if one or more of those users should go away and there is no commensurate development with which it can be replaced.
- ***Tax abatements***. The State of Oregon authorizes a number of tax abatement programs as incentives for development, including affordable housing and multi-family housing tax abatements and enterprise zones, where property taxes are waived on new, qualifying development for a typical period of five to ten years. While these abatements can serve as an important financial incentive that can make the difference on whether a project gets built, the abatement of taxes means that the investment will generate no increment to support the URA for the life of the plan.

This is not to say that such abatements should not be used, but that their financial impact should be discussed by policy makers and must be accounted for in the urban renewal plan's financial analysis.

- ***Declining values.*** Prior to the recession that began in 2007, it was not anticipated that real property values would decline below taxable assessed value, particularly an urban renewal plan's base year assessment. However, it is now known that such declines are possible and urban renewal agencies should carefully monitor economic conditions to anticipate such declines and adjust accordingly.
- ***Debt capacity.*** There are many external factors that will affect the urban renewal agency's debt capacity, including, but not limited to, revenue and revenue projections, interest rate and other terms, the city's or county's bond rating, and fluctuations in national and international bond markets overall. While many of these issues are largely outside the control of the URA, financial plans and projections should be updated to reflect the most current rates and terms. Additionally, an individual entity's risk tolerance needs to be factored into financial modeling.
- ***Utilities and equipment.*** In some districts, a sizable portion of tax revenues come from private property (equipment) and utilities. The valuation of these utilities has been volatile, particularly with changes in valuation methodologies. Additionally, if major utility infrastructure is abandoned and/or relocated outside the urban renewal area, significant impacts to tax increment revenue can result. Likewise, if significant utility infrastructure is constructed in the URA, significant tax increment can result.

  Urban renewal areas that include significant equipment valuations face similar considerations. The relocation in or out of an URA can have significant immediate positive and negative impacts to tax increment. In addition, depreciation schedules for expensive equipment will impact TIF.

Appendix D: A Letter from Taxing Districts

SDAO Special Districts Association of Oregon

OREGON SCHOOL BOARDS ASSOCIATION

Thank you for the opportunity to provide input on the Best Practices for Urban Renewal in Oregon document. The Special Districts Association of Oregon (SDAO) and Oregon School Boards Association (OSBA) believe that a reasoned and balanced perspective should be used when determining whether to use urban renewal. Our hope is to provide some of that balance in this appendix to that document.

From our perspective, urban renewal should be used to increase assessed value and return the increment to the tax roles as quickly as possible.

SDAO and the OSBA believe that the use of urban renewal can be a powerful tool when establishing economic development plans for a municipality. Ultimately, city and county planners desire that urban renewal will produce benefits not only within the urban renewal district, but also the surrounding areas. We want the same things. In order to achieve those outcomes, our groups believe that four core criteria must be considered prior to initiating an urban renewal plan for it to be successful:

1) that cities and counties recognize the value of partnerships with overlapping districts as a method to become more successful,
2) the "but-for" rule,
3) that the use of smaller, focused urban renewal projects are likely to be more successful than large ambiguous ones, especially when those projects return value to the tax rolls while eliminating blight, and
4) that the work of urban renewal is accomplished quickly and the value returned to the tax rolls as soon as possible.

Partnerships with Overlapping Districts

The first core path to success in creating an urban renewal plan is to engage the overlapping taxing districts early in the process. Early engagement allows time to adjust the plans, projects, timelines and deliverables to accommodate specific needs of overlapping taxing districts. Early engagement also provides the opportunity for cities and counties to explain the project list and to describe desired objectives and outcomes.

Most districts are concerned about a number of issues—specifically, loss of future income, increased workload, and the effect that urban renewal has on cannibalizing investment in adjacent areas (thereby lowering values).As just one example, commercial development increased substantially at Clackamas Town Center after an urban renewal plan was implemented, while during those same years the McLoughlin area suffered from disinvestment. When these issues are not addressed early in the process, special districts (along with school districts and community groups) have later actively campaigned against urban renewal plans.

In some situations the local resistance has been successful in derailing urban renewal plans or, in casessuch as in Clackamas County, virtually eliminating urban renewal altogether through the initiative process.

Securing community support should be a primary goal of economic development agencies and that support is best gained through early, honest, and thorough conversations with the overlapping taxing district partners. We believe that one of the best ways to accomplish this is to identify clearly defined projects to be undertaken rather than ambiguous projects.

The "But-For" Rule

A long-held argument used by supporters of tax increment financing is that TIF actually causes development to happen. In other words, supporters are quick to tout, "but-for" urban renewal, this project would not have happened. In some cases this might be true, but overlapping taxing districts are concerned that data supporting these claims has not yet been substantiated. In fact the opposite may be true—an urban renewal plan in one area may actually pirate development intended for other areas in the community, the region, or the state. That halo disinvestment can be seen around many urban renewal areas – McLoughlin being one example.

To garner the support of those impacted by urban renewal, the urban renewal agencies must be prepared to show how the money will be invested and must be prepared to demonstrate how that investment will return value to the tax rolls over the long term. There is often some level of support among districts for infrastructure projects that provide subsurface or transportation infrastructure. But that support wanes when the projects include beautification efforts, tax incentives, system development charge waivers or other taxpayer-funded inducements.

Projects.

Special districts and school districts are probably most concerned about the nature of the projects that are frequently proposed under urban renewal plans. In general, many urban renewal agencies fail to consider the impacts on overlapping districts when they elect to pursue projects that may really do nothing to increase property values. A city hall, police station, or a civic building may create public resistance when projectsdo not clearly and directly contribute to increased value.

Advocates argue that these civic projects create value and that investment wouldn't happen without them. Seldom (or rather never) do we hear from developers or builders that they would be willing to invest if only there were a brand new city hall nearby. Further, municipal buildings funded with increment dollars are subsidized by overlapping districts that don't receive the municipal services throughout their respective areas. These types of subsidies generally do not receive the support of the overlapping agencies. Instead, when confronted with projects that support a build out of sewer, water, and transportation infrastructure--especially when that infrastructure is designed to support industrial and commercial development—special districts are more supportive. Projects that are supported only by some ambiguous future need are unlikely to garner that support.

Scope and Scale

In addition to helping districts understand how the proposed projects will ultimately increase the tax base and effect workload, overlapping agencies are concerned about the size of projects and the scheduled timing for return of value.

Districts understand the limits on funding availability during the first few years of the plan and the complexity of bonding during those times. We also understand municipal agencies' desires to have plans that have 1) extensive and ambiguous project lists, 2) last for decades, and 3) have high maximum indebtedness structures. Plans that meet one or more of these criteria are likely to ensure the most amount of resistance by urban renewal opponents.

Instead, overlapping districts will be more interested in and more likely to support plans that are focused to a few important projects, that limit the maximum indebtedness, and that resolve blight then go away. These plans are likely to build trust in the community, return value to the roles more quickly, and could ensure a long-term relationship between agencies that will lead to more focused development in the future.

Bateman Seidel

MEMORANDUM

TO: Oregon City Urban Renewal Commission

FROM: William Kabeiseman, City Attorney

DATE: March 12, 2025

RE: Legal Options to Clarify Section 59 of the Oregon City Charter

I. INTRODUCTION

At the most recent Urban Renewal Commission (URC) meeting, the URC discussed a variety of issues related to Section 59 of the Charter. At that meeting, the URC asked for additional information regarding legal options, including the possibility of a declaratory judgment lawsuit or a validation lawsuit. This memorandum is intended to provide additional clarity on those options that involve legal actions.

II. DISCUSSION

The details of Section 59, as well as the Court of Appeals opinion in *Urban Renewal Comm. of Oregon City v. Williams*, 322 Or App 615 (2022), were discussed in a previous memorandum and will not be repeated here. Instead, this memorandum will specifically address the two legal options to provide clarity on the extent of the Section 59.

A. Declaratory Judgment Lawsuit.

The first option available to the URC is to sue the City seeking a declaratory judgment declaring that the remainder of Section 59 is preempted and unenforceable. That was the approach used in the *Williams* case noted above, when the URC sued both the City as well as John Williams, as a proponent of the measure that resulted in Section 59 being added to the City Charter.

A declaratory judgment is simply a lawsuit asking the court to "declare" what the law is; in this case, the City would be seeking to have the Clackamas County Circuit Court declare whether or not Section 59 is preempted or otherwise unenforceable. Having the URC sue the City is somewhat unusual, but not unprecedented (it occurred in the *Williams* case), but in that situation there was a proponent who was willing to advocate for the validity of the measure. Former Mayor Williams has since passed away and there

may not be any other proponent that would intervene or otherwise take part in a declaratory judgment. Regardless, the lawsuit would proceed as any other lawsuit, including the potential for discovery and potential trial, although it is more likely to be resolved through summary judgment motions, as the critical issue is a legal issue.

The timeline and costs for such a lawsuit could vary significantly depending on whether any party intervened or otherwise participated. To the extent the lawsuit proceeded in a relatively straightforward manner without significant complications, an estimated cost would be $25,000 - $30,000 and a resolution in the trial court should take 3 – 4 months. Should an additional party or parties intervene, or other complication occur, the matter could be significantly more costly. Moreover, if other parties intervened, it is possible that there could be an appeal that would result in even further delay and additional costs.

B. Validation Lawsuit.

The alternative form of a lawsuit is what is known as a "validation" suit under ORS 33.710. That statute allows public bodies to commence a proceeding in court and ask the court to "examine[] and judge[] the regularity and legality" of certain actions by a local government. The validation lawsuit would require the URC to take an action in order for the court to examine its validity, thus the URC would have to do something contrary to Section 59, such as issuing bonded indebtedness (i.e., execute a written agreement promising to pay to another a specified sum of money, at a specified date, at least one year in the future), and then file a lawsuit asking the Clackamas County Circuit Court to "validate" that action.

When the validation lawsuit is filed, the URC would publish notice of the validation lawsuit and any interested person could then intervene in the matter. Although the matter would be heard by the circuit court and other parties could intervene, the question should be limited and discovery should not be necessary. In addition, the statute requires the matter to be "tried forthwith and judgment rendered as expeditiously as possible." likely resulting in a quicker resolution than in a declaratory judgment suit. Thus, it is likely that the timeline and the costs of a validation lawsuit would be similar to the timeline and costs of the "straightforward" declaratory judgment lawsuit – in the neighborhood of 3 – 4 months and $20,000 - $30,000. However, the validation lawsuit could also be appealed to the Court of Appeals.

Although validation proceedings are not common, they have been used by a variety of different local governments, including the City of Milwaukie (seeking review of its ability to withdraw from the North Clackamas Parks and Recreation District), Columbia

County (seeking a review of the validity of an initiative that approved a "Second Amendment Sanctuary Ordinance"), and Metro (seeking review of the validity of its actions in developing the Convention Center hotel in Portland).

V. CONCLUSION

The URC could seek a final decision on the ongoing validity of Section 59 from the Clackamas County Circuit Court. There are at least two methods to do so, either a declaratory judgment suit or a validation suit. Although validation suits are less common than declaratory judgments, the topics covered in such a suit would be more limited and there is a statutory directive to expedite such suits. Accordingly, we would recommend that the URC file a validation suit if it decides to move forward with seeking clarity on Section 59 from the courts.

LOC
League of Oregon Cities

FAQ on Urban Renewal

APRIL 2018

Last reviewed by LOC attorneys April 2023

FAQ: Urban Renewal

1. What is "Urban Renewal"?

Urban renewal is a financing mechanism used to improve the economic viability of specified areas. Specifically, ORS Chapter 457 gives cities and counties the authority to activate an urban renewal agency, with the power to propose and act on plans and projects to address "blight" in identified areas.[1] Examples of "blight" include buildings that are unsafe or unfit for occupancy, inadequate infrastructure, or population loss.[2] The area subject to urban renewal is called the "plan area."

2. How does My City Determine if Urban Renewal is Necessary?

The best way to determine if urban renewal is right for your city is to engage in preliminary feasibility studies. State law does not require cities or counties to conduct preliminary feasibility studies, but they can greatly help a city determine if blight exists in an area, how large a plan area should be, and what projects will successfully address the blight. Preliminary feasibility studies are often drafted by a technical advisory committee, ideally with input from residents, business owners, and other stakeholders.

3. How Does My City Create an Urban Renewal Agency?

A city or county can activate an urban renewal agency by declaring, via ordinance, that a blighted area exists in the city or county and there is a need for an urban renewal agency to function in the area.[3]

4. Is an Urban Renewal Agency Part of the City or County?

No. The new urban renewal agency is a separate entity from the city or county that created it. Thus, when the city or county activates an urban renewal agency, it must also establish a governing structure for the agency and appoint a board. An urban renewal agency board can take one of three forms: (1) the governing body of the municipality (*e.g.*, the city council) acts as the agency board; (2) a separate group—appointed by the municipal governing body—acts as the board; or (3) the city housing authority acts as the board.[4] The urban renewal agency board may also appoint an advisory committee, although state law does not require one.

5. Are There any Limits on the Size of an Urban Renewal Area?

Yes. State law limits the amount of acreage and assessed value that may be under the jurisdiction of an urban renewal agency.[5] For cities with a population greater than 50,000, that limit is fifteen (15) percent, and for cities with a population less than 50,000, that limit is 25 percent. The 15 percent and 25 percent for maximum acreage and assessed value includes both the proposed urban renewal area ***and*** all other areas in the city already under an urban renewal plan.

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[1] Article 9 of the Oregon Constitution gives the Legislature authority to provide for urban renewal throughout the state. ORS chapter 457 sets out the state laws that govern urban renewal areas and agencies.
[2] *See* ORS 457.010(1) (statutory definition of blight).
[3] ORS 457.035.
[4] ORS 457.045.
[5] ORS 457.420.

6. What Must be Included in an Urban Renewal Plan?

After being activated by the city or county, an urban renewal agency is tasked with drafting an urban renewal plan.[6] State law identifies the components that must be included in an urban renewal plan.

Urban renewal plans must include the following components:

a. A description of each urban renewal project to be undertaken.
b. An outline of the major project activities planned for the urban renewal area(s).
c. A map and legal description of the urban renewal area(s).
d. An explanation of how the plan relates to local objectives.
e. An indication of proposed land uses, maximum densities, and building requirements for each urban renewal area.
f. A description of relocation methods for residents or businesses that must move because of urban renewal agency projects.
g. A description of property to be acquired by the urban renewal agency (if any) and how it will be disposed (*e.g.*, sale or lease), along with a schedule for acquisition and disposition.
h. If the plan calls for use of tax increment financing, the maximum amount of indebtedness to be issued or incurred.
i. A description of which changes to the urban renewal plan are to be considered "substantial amendments."
j. If the plan calls for the development of a public building (*e.g.*, police station), an explanation of how the building serves or benefits the urban renewal area.

7. How does Urban Renewal Relate to my City's Comprehensive Plan?

State law mandates that an urban renewal plan conform with a city's acknowledged comprehensive plan.[7] However, if a city council certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe respecting which the governor has certified the need for disaster assistance under federal law, the city council may approve an urban renewal plan and project for such area without having the urban renewal plan and project conform to the city's comprehensive plan.[8]

8. Does the Public have the Right to Participate in Urban Renewal Planning?

Yes. State law requires that an urban renewal agency provides for public involvement in all stages of the development of an urban renewal plan.[9] Public involvement can take different forms, including the following: meetings between agency staff and elected officials; meetings with business owners and chambers of commerce; public hearings and information sessions for residents; and outreach with other taxing jurisdictions (*e.g.*, school districts and special districts).

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[6] ORS 457.085(2).
[7] ORS 457.095(3).
[8] ORS 457.160.
[9] ORS 457.085(1).

9. How is Urban Renewal Funded?

Urban renewal may be funded in a variety of manners, including, but not necessarily limited to: tax increment financing (TIF), selling property, loans, grants and bonds.

Tax increment financing, perhaps the primary way urban renewal is funded, is used to fund projects within urban renewal areas by earmarking property tax revenue from increases in assessed property value within an urban renewal area. Essentially, the tax increment financing process splits tax revenue from properties within the urban renewal area into two components: base revenue and incremental revenue. Base revenue is the level of property tax revenue available before the urban renewal area is established and is unaffected by urban renewal. Incremental revenue is the revenue that exceeds base revenue and is (ideally) generated by development projects in the urban renewal area. Incremental revenues are allocated to the urban renewal agency to finance urban renewal projects.

10. Where Can I Find More Information on Urban Renewal?

- The Oregon Department of Revenue (DOR) publishes the annual *Oregon Property Tax Statistics,* which contain property tax information for each urban renewal agency and urban renewal plan.
    - DOR Property Tax Statistics: https://www.oregon.gov/dor/gov-research/Pages/Research-Reports-and-Statistics.aspx.
- The former Association of Oregon Redevelopment Agencies (AORA), now a part of the Oregon Economic Development Association (OEDA) as an urban renewal committee, advocates for local redevelopment throughout Oregon.
    - OEDA website: https://oeda.biz/committees/urban-renewal
- The Legal Research Department at the League of Oregon Cities can assist members with questions about urban renewal in their cities.[10]

[10] *See* LOC Municipal Handbook – Chapter 26: Economic Development: https://www.orcities.org/application/files/3016/6636/8249/Chapter_26_-_Economic_Development_EDITED.pdf.

Tax Increment Financing and Urban Renewal

By Elaine Howard

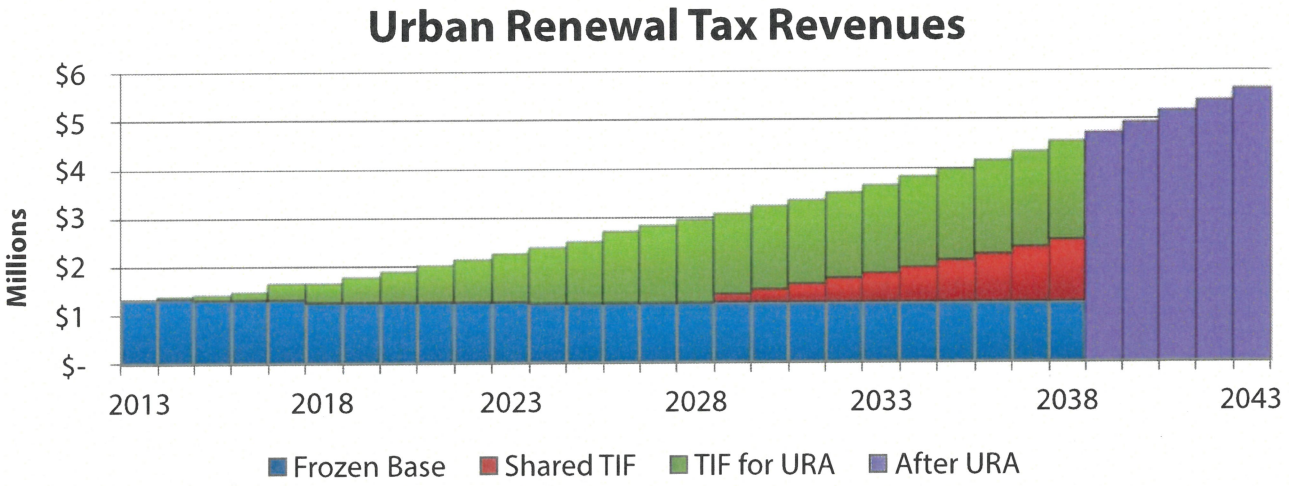
Tax increment financing, which follows the creation of an urban renewal area by a city or county, is an invaluable tool for helping create economic vitality in communities throughout Oregon. This type of financing is authorized under state law, implemented locally, and allows for the concentrated use of property tax revenues to facilitate economic growth in certain designated areas of a city or county. These areas can have a variety of deficient conditions, including infrastructure that is in need of upgrading; buildings that could benefit from storefront improvements or more full renovation; or low property values, which indicate the necessity of additional efforts to facilitate development.

The underpinning theory of urban renewal is that if these properties and the surrounding infrastructure are upgraded, they will contribute more substantially to the local economy and to the property taxes which support all of the taxing jurisdictions.

How Does Tax Increment Financing Work?

Urban renewal is unique in that it has its own funding source: tax increment financing (TIF). At the time an urban renewal plan is adopted, a county assessor calculates the total tax assessed value of the area and establishes this value as the "frozen base" for the area. Growth above the base is called the "increment." Tax increment revenues are the property tax revenues generated off the increase in the assessed values over the frozen base. These taxes from the growth in the urban renewal area go to the urban renewal agency for use within the urban renewal area. Taxes off the frozen base continue going to all of the taxing jurisdictions.

The amount of funds an urban renewal area may use is determined by setting a maximum indebtedness. This is the total amount of money that can be used on projects, programs and administration of the urban renewal area. It is based on



> “Tax increment revenues are the property tax revenues generated off the increase in the assessed values over the frozen base.”

balancing the project needs in the area with the timeframe desired for use of the tax increment tool. Typical new urban renewal plans are for 20-25 years. Interest on any borrowing (bonds, lines of credit) is not counted towards the maximum indebtedness. Urban renewal plans adopted after 2009 have the potential for revenue sharing when certain thresholds of tax increment generation are met. This potential is indicated in the chart on the previous page.

What Types of Programs or Projects are Eligible Under Urban Renewal?

Urban renewal agencies can do certain projects or activities under an adopted urban renewal plan. These activities generally include:

- **Construction or improvement of public facilities including streets and utilities.**

The Barber Street extension project in Wilsonville bridges the Coffee Creek wetlands and connects approximately 2,500 planned units of new residential development in the Villebois neighborhood of Wilsonville to transit services at South Metro Area Rapid Transit's (SMART) Central station and the Westside Express Service commuter rail station, located on the east side of the wetlands. By providing alternative routes for vehicle traffic, this urban renewal-funded project will improve fire department access to Villebois, school bus access to Lowrie Primary School, and reduce traffic congestion on Wilsonville Road. Additionally, this connection improves bike and pedestrian connectivity within the city and will tie into a future phase of the Tonquin Trail.

- **Development of parks, way-finding signage and other public uses.**

The Garden of Surging Waves in Astoria, a park that commemorates Chinese heritage in the community, was funded through a variety of sources, including tax increment financing. It is directly adjacent to the downtown core and within blocks of the recently renovated Liberty Theater, both projects key in bringing economic vitality and livability to Astoria.

- **Participation with developers for property improvement, or the creation of jobs and housing.**

The Face Rock Creamery was a project of the Bandon Urban Renewal Agency and a private developer. At present they have 15 new permanent full-time employees and four

(continued on page 24)

seasonal employees plus additional work for delivery transportation and milk truck drivers as well as the temporary jobs for construction. The business serves as a key tourist attraction at the north portal to Bandon.

The La Grande McLean Family Dental property was partially funded through an urban renewal grant. The project added jobs in the urban renewal area and services to the community.

- **Rehabilitation of existing buildings**

Sandy has an innovative storefront program, bringing in an architect to design the new exterior façade in keeping with a theme established for the downtown core.

How Does Tax Increment Financing Affect Overlapping Taxing Districts?

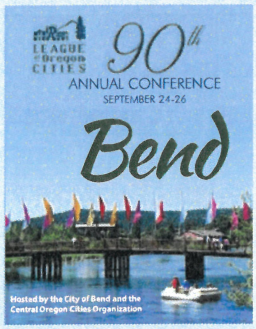
Financially and through improvements.

Taxing jurisdictions are impacted by tax increment financing both directly through the division of taxes for the urban renewal agency, but also impacted due to the positive impacts of urban renewal projects. Urban renewal agencies gain revenues through the collection of property taxes. Property tax increases come through new development and the statutory limit of 3 percent increase in assessed values on existing real property. During the use of tax increment financing, the permanent rate property taxes on the growth in assessed value in the urban renewal area are allocated to the Urban Renewal Agency and not the taxing district. The taxing jurisdictions still are able to collect the property tax revenues from the assessed value of the frozen base, but increases in revenues are allocated to the Urban Renewal Agency for use within the urban renewal area. In many urban renewal areas, that growth from new investment would not have occurred but for the use of urban renewal which has stimulated the growth. Shared TIF as shown in the chart above refers to meeting thresholds as defined in ORS 457 where TIF revenues must be shared with overlapping taxing jurisdictions. The impacts on schools and education serviced districts are more indirect, as they are funded through the State School Fund that is comprised of other sources of revenues including property taxes.

Once an urban renewal area is terminated, there generally will be an increase in property tax revenues to all taxing jurisdictions. This increase of property tax revenue is a result of the ability to concentrate funding in a specific area, encouraging the area to develop properly.

Many urban renewal projects improve infrastructure to allow for new development, both creating new jobs and housing

Registration Opens July 1
www.orcities.org/conference



LEAGUE of Oregon CITIES 90th ANNUAL CONFERENCE
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Includes information on speakers, tours, program and lodging.

for the community. These infrastructure projects are often helpful to the local fire districts as they provide water service or improved roads. This infrastructure also encourages business growth, and encouraging the growth of local businesses supports surrounding neighborhoods as well as provides job opportunities within the community. Other projects help increase the livability in a city by developing much needed public facilities. Employment opportunities and livability are key in families making decisions to move to or remain in communities, providing students for the schools. Since schools are funded on a per-pupil basis, the retention and growth of families in a community is a vital component to supporting schools. The improvement of buildings in a community help in the visual appearance but often help in addressing fire and life safety issues, key issues for fire districts.

How Does Tax Increment Financing Affect Property Tax Payers' Tax Bills?

Most property tax payers will not see an increase in property taxes as a result of a new urban renewal area. If there is an increase, it is due to bond or local option levies which were adopted prior to October of 2001 and are still collecting revenues. There are very few local option levies still in existence that were issued prior to October 2001. These impacts are typically VERY small. However, once an urban renewal plan is adopted in an urban renewal area, tax payers within that area will see a line item on their property tax statements for urban renewal. This can be quite confusing because even if you are not physically located in the area, you will see an indication of the impact of urban renewal on your property tax bill. Your overall tax bill does not increase, but the allocation of revenues received from your payment is changed as a portion of that payment now goes to urban renewal. This is called "division of taxes" and is the administrative way that assessors must show the calculation of the tax increment revenue.

For More Information

The Association of Oregon Redevelopment Agencies (AORA) has a website, *www.orurbanrenewal.org*, that contains additional information and publications on urban renewal, including a Best Practices Manual for AORA members. AORA is presently working on a video presentation to tell the stories of successful projects. Check back on the website in the fall. ■

Learn more about urban renewal at the 90th LOC Conference, September 24-26 in Bend.

Consultant Elaine Howard will be presenting a concurrent session on urban renewal and enterprise zones, followed by a tour of the city of Redmond's downtown revitalization efforts.

For more information, check out the conference guide contained in this issue of *Local Focus*.

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Chapter 457 — Urban Renewal

2023 EDITION

URBAN RENEWAL

HOUSING; LOTTERY AND GAMES; ENVIRONMENT

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GENERAL PROVISIONS

457.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Blighted areas" means areas that, by reason of deterioration, faulty planning, inadequate or improper facilities, deleterious land use or the existence of unsafe structures, or any combination of these factors, are detrimental to the safety, health or welfare of the community. A blighted area is characterized by the existence of one or more of the following conditions:

(a) The existence of buildings and structures, used or intended to be used for living, commercial, industrial or other purposes, or any combination of those uses, that are unfit or unsafe to occupy for those purposes because of any one or a combination of the following conditions:

(A) Defective design and quality of physical construction;

(B) Faulty interior arrangement and exterior spacing;

(C) Overcrowding and a high density of population;

(D) Inadequate provision for ventilation, light, sanitation, open spaces and recreation facilities; or

(E) Obsolescence, deterioration, dilapidation, mixed character or shifting of uses;

(b) An economic dislocation, deterioration or disuse of property resulting from faulty planning;

(c) The division or subdivision and sale of property or lots of irregular form and shape and inadequate size or dimensions for property usefulness and development;

(d) The laying out of property or lots in disregard of contours, drainage and other physical characteristics of the terrain and surrounding conditions;

(e) The existence of inadequate streets and other rights of way, open spaces and utilities;

(f) The existence of property or lots or other areas that are subject to inundation by water;

(g) A prevalence of depreciated values, impaired investments and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered;

(h) A growing or total lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety and welfare; or

(i) A loss of population and reduction of proper utilization of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.

(2) "Certified statement" means the statement prepared and filed pursuant to ORS 457.430 or an amendment to the certified statement prepared and filed pursuant to ORS 457.430.

(3) "City" means any incorporated city.

(4)(a) "Existing urban renewal plan" means an urban renewal plan that provides for a division of ad valorem property taxes as described under ORS 457.420 to 457.470 adopted by ordinance before December 6, 1996, that:

(A) Except for an amendment made on account of ORS 457.190 (3) and subject to paragraph (b) of this subsection, is not changed by substantial amendment, as described in

ORS 457.085 (2)(i)(A) or (B), on or after December 6, 1996; and

(B) For tax years beginning on or after July 1, 1998, includes the limit on indebtedness as described in ORS 457.190 (3).

(b) If, on or after July 1, 1998, the maximum limit on indebtedness (adopted by ordinance before July 1, 1998, pursuant to ORS 457.190) of an existing urban renewal plan is changed by substantial amendment, then "indebtedness issued or incurred to carry out the existing urban renewal plan" for purposes of ORS 457.435 includes only the indebtedness within the indebtedness limit adopted by ordinance under ORS 457.190 (3)(c) before July 1, 1998.

(5) "Fiscal year" means the fiscal year commencing on July 1 and closing on June 30.

(6) "Governing body of a municipality" means, in the case of a city, the common council or other legislative body thereof, and, in the case of a county, the board of county commissioners or other legislative body thereof.

(7) "Housing authority" or "authority" means any housing authority established pursuant to the Housing Authorities Law.

(8) "Increment" means that part of the assessed value of a taxing district attributable to any increase in the assessed value of the property located in an urban renewal area, or portion thereof, over the assessed value specified in the certified statement.

(9) "Maximum indebtedness" means the amount of the principal of indebtedness included in a plan pursuant to ORS 457.190 and does not include indebtedness incurred to refund or refinance existing indebtedness.

(10) "Municipality" means any county or any city in this state. "The municipality" means the municipality for which a particular urban renewal agency is created.

(11) "Permanent rate plan" means an urban renewal plan that:

(a) Was adopted on or after September 29, 2019; or

(b) Was substantially amended as described in ORS 457.085 (2)(i)(A) or (B) on or after September 29, 2019.

(12)(a) "Public building" means:

(A) A fire station, police station, public library, public hospital, capitol building, school as defined in ORS 339.315, college, university, city hall or the residence of any state official elected by the state at large;

(B) The grounds owned by a public body adjacent to a building described in subparagraph (A) of this paragraph;

(C) The portion of any other building owned and prepared for occupation or occupied by an agency of the state or a municipal corporation as defined in ORS 297.405; or

(D) A public art statue, sculpture, clock tower or bell tower.

(b) "Public building" does not mean:

(A) Property acquired by an urban renewal agency with the intent to redevelop or sell the property;

(B) Property acquired by an urban renewal agency with the intent to lease the property for a taxable use;

(C) Transportation infrastructure, including train stations, bus stations and publicly owned parking facilities that support taxable property;

(D) Water or wastewater infrastructure facilities, including treatment facilities;

(E) Tourism-related facilities as defined in ORS 320.300; or

(F) Park and recreation facilities, including sports fields.

(13) "Public building project" means an urban renewal project that includes a public building.

(14) "Reduced rate plan" means an urban renewal plan that:

(a) Was adopted before December 6, 1996, is an existing urban renewal plan and was designated as an Option One plan under ORS 457.435;

(b) Was adopted before December 6, 1996, was an existing urban renewal plan designated as an Option One plan under ORS 457.435 on October 6, 2001, and was substantially amended as described in ORS 457.085 (2)(i)(A) or (B) on or after October 6, 2001, and before September 29, 2019;

(c) Was adopted on or after October 6, 2001, and before September 29, 2019; or

(d) Was adopted before December 5, 1996, if the governing body of the city or county that adopted the plan has, pursuant to ORS 457.445 (5), irrevocably elected to use a consolidated billing tax rate determined under ORS 457.445 (6) and, on or before July 15 of the first property tax year for which the election is effective, provided the county assessor with a copy of the resolution or ordinance making the election.

(15) "Standard rate plan" means an urban renewal plan that is not a permanent rate plan or reduced rate plan.

(16) "Taxing district" means the state, city, county or any other unit of government that has the power to levy a tax.

(17) "Urban renewal agency" or "agency" means an urban renewal agency created under ORS 457.035 and 457.045.

(18) "Urban renewal area" means a blighted area included in an urban renewal plan or an area included in an urban renewal plan under ORS 457.160.

(19) "Urban renewal plan" or "plan" means a plan, as it exists or is changed or modified from time to time for one or more urban renewal areas, as provided in ORS 457.085, 457.095, 457.105, 457.115, 457.120, 457.125, 457.135 and 457.220.

(20) "Urban renewal project" or "project" means any work or undertaking carried out under ORS 457.170 in an urban renewal area. [Amended by 1957 c.456 §1; 1969 c.225 §1; 1979 c.621 §10; 1991 c.67 §128; 1991 c.459 §330; 1997 c.541 §442; 1999 c.21 §76; 1999 c.579 §25; 2001 c.477 §1; 2003 c.621 §106; 2007 c.884 §1; 2009 c.700 §11; 2013 c.579 §1; 2019 c.580 §1; 2021 c.65 §1]

457.020 Declaration of necessity and purpose. It hereby is found and declared:

(1) That there exist within the state blighted areas.

(2) That such areas impair economic values and tax revenues.

(3) That such areas cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health, safety and welfare, fire and accident protection and other public services and facilities.

(4) That certain blighted areas may require acquisition and clearance since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation, but other areas or portions thereof may be susceptible of conservation or rehabilitation in such manner that the conditions and evils mentioned in subsections (1), (2) and (3) of this section may be eliminated, remedied or prevented and that such areas should, if possible, be conserved and rehabilitated through appropriate public action and the cooperation and voluntary action of the owners and tenants of property in such areas.

(5) That the acquisition, conservation, rehabilitation, redevelopment, clearance, replanning and preparation for rebuilding of these areas, and the prevention or the reduction of blight and its causes, are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern.

(6) That there are also certain areas where the condition of the title, the diverse ownership of the land to be assembled, the street or lot layouts or other conditions prevent a proper development of the land, and that it is in the public interest that such areas, as well as blighted areas, be acquired by eminent domain and made available for sound and wholesome development in accordance with a redevelopment or urban renewal plan, and that the exercise of the power of eminent domain and the financing of the acquisition and preparation of land by a public agency for such redevelopment or urban renewal is likewise a public use and purpose.

(7) That redevelopment and urban renewal activities will stimulate residential construction which is closely correlated with general economic activity; that undertakings authorized by this chapter will aid the production of better housing and more desirable neighborhood and community development at lower costs and will make possible a more stable and larger volume of residential construction, which will assist materially in maintaining full employment.

(8) That the necessity in the public interest for this chapter is a matter of legislative determination. [Amended by 1957 c.456 §2; 1979 c.621 §11]

457.025 Powers supplemental to other laws. The powers conferred by this chapter are in addition and supplemental to the powers conferred by any other law. [Formerly 457.110]

457.030 [Amended by 1957 c.456 §18; repealed by 1979 c.621 §28]

URBAN RENEWAL AGENCIES; PLANS; ACTIVITIES

457.035 Urban renewal agencies; creation; ordinance to exercise powers; area of operation. (1) In each municipality, as defined in ORS 457.010, there hereby is created a public body corporate and politic to be known as the "urban renewal agency" of the municipality. However, the urban renewal agency shall not exercise its powers until or unless the governing body of the municipality, by nonemergency ordinance, declares that blighted areas exist in the municipality and that there is need for an urban renewal agency to function in the municipality and elects to have the powers of an urban renewal agency exercised in any of the three ways provided in ORS 457.045.

(2) An urban renewal agency, upon activation under subsection (1) of this section, shall have authority to exercise its powers within the same area of operation given a housing authority of the municipality under ORS 456.060. [Formerly 457.130]

457.040 [Repealed by 1979 c.621 §28]

457.045 Election of method of exercise of urban renewal agency's powers. The governing body of a municipality shall, in the ordinance adopted under ORS 457.035, elect to have the powers of an urban renewal agency under this chapter exercised in one of the following ways:

(1) By a housing authority of the municipality established pursuant to the Housing Authorities Law in which case the name of the body corporate and politic shall be the "housing authority and urban renewal agency" of the municipality.

(2) By appointing a board or commission composed of not less than three members.

(3) By the governing body, itself, provided, however, that any act of the governing body acting as the urban renewal agency shall be, and shall be considered, the act of the urban

renewal agency only and not of the governing body. [Formerly 457.140]

457.050 [Amended by 1953 c.230 §3; 1957 c.456 §19; repealed by 1979 c.621 §28]

457.055 Transfer of urban renewal agency powers. At any time following adoption of the ordinance under ORS 457.035, or for urban renewal agencies activated before October 3, 1979, at any time following adoption of a proper resolution or ordinance of the governing body of the municipality, the governing body of a municipality may, by ordinance, transfer the authority to exercise the powers of the urban renewal agency to any other body authorized to exercise those powers under ORS 457.045. All duties and obligations of the urban renewal agency shall thereafter be assumed by the body to which those powers are transferred. [1979 c.621 §16 (enacted in lieu of 457.145)]

457.060 [Repealed by 1979 c.621 §28]

457.065 Advisory board for housing authority acting as urban renewal agency. For the purpose of coordinating its activities and undertakings under this chapter with the needs and undertakings of other local organizations and groups, a housing authority exercising the powers of an urban renewal agency under ORS 457.045 shall establish an advisory board consisting of the chairperson of the authority, who shall be chairperson of the advisory board, and of sufficient members, to be appointed by the chairperson, to represent as far as practicable:

(1) The general public and consumers of housing.
(2) General business interests.
(3) Real estate, building and home financing interests.
(4) Labor.
(5) Any official planning body in the locality.
(6) Church and welfare groups. [Formerly 457.100]

457.070 [Repealed by 1979 c.621 §28]

457.075 Termination of urban renewal agency. If the governing body of a municipality which has an urban renewal agency under ORS 457.035 finds that there no longer exists a need for an urban renewal agency in the municipality, the governing body shall provide, by ordinance, for a termination of the agency and a transfer of the agency's facilities, files and personnel to the municipality. The termination of an urban renewal agency shall not affect any outstanding legal actions, contracts or obligations of the agency and the municipality shall be substituted for the agency and, for the purpose of those legal actions, contracts or obligations, shall be considered a continuation of the urban renewal agency and not a new entity. No urban renewal agency shall be terminated under this section unless all indebtedness to which a portion of taxes is irrevocably pledged for payment under ORS 457.420 to 457.470 is fully paid. [1979 c.621 §6; 1991 c.459 §331; 1997 c.541 §443]

457.080 [Repealed by 1979 c.621 §28]

457.085 Urban renewal plan requirements. (1) An urban renewal agency shall provide for public involvement in all stages in the development of an urban renewal plan.

(2) An urban renewal plan proposed by an urban renewal agency shall include all of the following:

(a) A description of each urban renewal project to be undertaken.

(b) An outline for the development, redevelopment, improvements, land acquisition, demolition and removal of structures, clearance, rehabilitation or conservation of the urban renewal areas of the plan.

(c) A map and legal description of the urban renewal areas of the plan.

(d) An explanation of the plan's relationship to definite local objectives regarding appropriate land uses and improved traffic, public transportation, public utilities, telecommunications utilities, recreational and community facilities and other public improvements.

(e) An indication of proposed land uses, maximum densities and building requirements for each urban renewal area.

(f) A description of the methods to be used for the temporary or permanent relocation of persons living in, and businesses situated in, the urban renewal area of the plan.

(g) An indication of which real property may be acquired and the anticipated disposition of such real property, whether by retention, resale, lease or other legal use, together with an estimated time schedule for such acquisition and disposition.

(h) If the plan provides for a division of ad valorem taxes under ORS 457.420 to 457.470, the maximum amount of indebtedness that can be issued or incurred under the plan.

(i) A description of what types of possible future amendments to the plan are substantial amendments and require the same notice, hearing and approval procedure required of the original plan under ORS 457.095 as provided in ORS 457.220, including but not limited to amendments:

(A) Adding land to the urban renewal area if the addition results in a cumulative addition of more than one percent of the urban renewal area.

(B) Increasing the maximum amount of indebtedness that can be issued or incurred under the plan.

(j) For a project that includes a public building, an explanation of how the public building serves or benefits the urban renewal area. [1979 c.621 §2; 1983 c.544 §1; 1987 c.668 §1; 1987 c.447 §130; 1991 c.459 §332; 1997 c.541 §444; 2019 c.580 §2]

457.087 Report required to accompany proposed urban renewal plan. An urban renewal plan proposed by an urban renewal agency shall be accompanied by a report that contains:

(1) A description of the physical, social and economic conditions in the urban renewal areas of the plan and the expected impact, including the fiscal impact, of the plan in light of added services or increased population;

(2) Reasons for the selection of each urban renewal area in the plan;

(3) The relationship between each project to be undertaken under the plan and the existing conditions in the urban renewal area;

(4) The estimated total costs for each project and the sources of moneys to pay the costs;

(5) The anticipated completion date for each project;

(6) The estimated amount of moneys required for each urban renewal area under ORS 457.420 to 457.470 and the anticipated year in which indebtedness will be retired or otherwise provided for under ORS 457.420 to 457.470;

(7) A financial analysis of the plan with sufficient information to determine the feasibility of the plan;

(8) A fiscal impact statement that estimates the impact of the tax increment financing, both until and after the indebtedness is repaid, upon all districts levying taxes upon property in the urban renewal area; and

(9) A relocation report that includes:

(a) An analysis of existing residents or businesses required to relocate temporarily or permanently as a result of the urban renewal agency's actions under ORS 457.170;

(b) A description of the methods to be used for the temporary or permanent relocation of persons living, and businesses situated, in the urban renewal area, in accordance with ORS 35.500 to 35.530; and

(c) An enumeration, by cost range, of the existing housing units in the urban renewal areas of the plan to be destroyed or altered and the new units to be added. [2019 c.580 §4]

457.089 Urban renewal plan and report to planning commission and affected taxing districts for recommendations before approval by municipality; taxing district concurrence required for plan that includes public building project. (1) An urban renewal agency shall forward an urban renewal plan and the accompanying report to the planning commission of the municipality for recommendations before presenting the plan to the governing body of the municipality for approval under ORS 457.095.

(2)(a) The urban renewal agency shall deliver the urban renewal plan and accompanying report to the governing body of each taxing district affected by the urban renewal plan, by certified mail or any form of delivery that requires a signature upon delivery or that may otherwise be tracked. The agency shall consult and confer with the taxing districts before presenting the plan to the governing body of the municipality for approval under ORS 457.095.

(b) The governing body of each taxing district shall have 45 days following receipt of the plan and report to submit written recommendations to the urban renewal agency. In adopting the plan, the governing body of the municipality shall accept, reject or modify the recommendations of each taxing district.

(3)(a) An urban renewal plan proposed on or after September 29, 2019, that includes a public building project requires the concurrence of at least three of the four taxing districts that are estimated to forgo the most property tax revenue as computed in the report accompanying the proposed plan. The question of concurrence shall be determined by a vote of the governing body of each of the four taxing districts.

(b) The urban renewal agency shall include with the urban renewal plan and accompanying report provided pursuant to subsection (2) of this section a request for concurrence in the inclusion of the public building project in the proposed plan.

(c) The governing body of each taxing district described in paragraph (a) of this subsection shall, by written resolution, concur or decline to concur in the inclusion of the public building project in the proposed plan.

(d)(A) If at least three of the four taxing districts described in paragraph (a) of this subsection concur, the public building project may be included in the proposed plan.

(B) If at least two of the four taxing districts described in paragraph (a) of this subsection do not concur, the public building project may not be included in the proposed plan.

(e) If the governing body of a taxing district described in paragraph (a) of this subsection does not respond within 45 days after receiving the plan and report under subsection (2) of this section, the taxing district shall be deemed to have concurred in the inclusion of all public building projects included in the plan.

(4) Subsections (2) and (3) of this section also apply to:

(a) The addition on or after September 29, 2019, of a public building project to an urban renewal plan that is not included in the plan before September 29, 2019.

(b) An amendment proposed on or after September 29, 2019, to an urban renewal plan that significantly increases the scope of work for a public building project to be paid for with division of taxes pursuant to ORS 457.420 to 457.470.

(5) An urban renewal plan may not be carried out until the plan has been approved by the governing body of each municipality in accordance with ORS 457.095 and 457.105. [2019 c.580 §5]

457.090 [Repealed by 1979 c.621 §28]

457.095 Approval of plan by ordinance; required contents of ordinance; notice. (1) The governing body of a municipality, upon receipt of a proposed urban renewal plan and report from the municipality's urban renewal agency and after public notice and hearing and consideration of public testimony and planning commission and taxing district recommendations, if any, may approve the urban renewal plan. The approval shall be by nonemergency ordinance that incorporates the plan by reference. Notice of adoption of the ordinance approving the urban renewal plan, and the provisions of ORS 457.135, shall be published by the governing body of the municipality in accordance with ORS 457.115 no later than four days following the ordinance adoption.

(2) The ordinance shall include determinations and findings by the governing body of the municipality that:

(a) Each urban renewal area is blighted;

(b) The rehabilitation and redevelopment is necessary to protect the public health, safety or welfare of the municipality;

(c) The urban renewal plan conforms to the comprehensive plan and economic development plan, if any, of the municipality as a whole and provides an outline for accomplishing the urban renewal projects the urban renewal plan proposes;

(d) Provision has been made to house displaced persons within their financial means in accordance with ORS 35.500 to 35.530 and, except in the relocation of elderly individuals or individuals with disabilities, without displacing on priority lists persons already waiting for existing federally subsidized housing;

(e) If acquisition of real property is provided for, it is necessary;

(f) Adoption and carrying out of the urban renewal plan is economically sound and feasible; and

(g) The municipality shall assume and complete any activities prescribed it by the urban renewal plan. [1979 c.621 §3; 1989 c.224 §121; 2007 c.70 §263; 2019 c.580 §6]

457.100 [Amended by 1979 c.621 §12; renumbered 457.065]

457.105 Approval of plan by other municipalities. In addition to the approval of a plan by the governing body of the municipality under ORS 457.095, when any portion of the area of a proposed urban renewal plan extends beyond the boundaries of the municipality into any other municipality and, in the case of a proposed plan by a county agency, when any portion of such area is within the boundaries of a city, the governing body of the other municipality may approve the plan and may do so by resolution, rather than by ordinance. A proposed plan for an urban renewal area which is wholly within the boundaries of a city, or which is wholly within the boundaries of a county and does not include any area within the boundaries of a

city, must be approved only by the governing body of the municipality in accordance with ORS 457.095. [1979 c.621 §3a; 1987 c.668 §2]

457.110 [Renumbered 457.025]

457.115 Manner of newspaper notice. Notice of adoption of an urban renewal plan required under ORS 457.095 and notice of filing of an annual financial statement required under ORS 457.460 shall be published in the newspaper, as defined in ORS 193.010, having the greatest circulation in the municipality and which is published within the municipality. If no newspaper is published within the municipality, the required notice shall be published in the newspaper having greatest circulation within the municipality published nearest to the municipality. [1979 c.621 §3b]

457.120 When additional notice required; to whom sent; contents; notice by publication. (1) In addition to any required public notice of hearing on a proposed urban renewal plan or substantial amendment or change to a plan, as described in ORS 457.085 (2)(i) and 457.220, the municipality shall cause notice of a hearing by the governing body on a proposed plan for a new urban renewal area or on a proposed change containing one of the types of amendments specified in ORS 457.085 (2)(i) to be mailed to each individual or household in one of the following groups:

(a) Owners of real property that is located in the municipality;

(b) Electors registered in the municipality;

(c) Sewer, water, electric or other utility customers in the municipality; or

(d) Postal patrons in the municipality.

(2) If the urban renewal area governed by the plan or substantial amendment thereof extends beyond the boundaries of the municipality, notice shall also be sent to each individual in the selected group who is located in the urban renewal area.

(3) The notice required by this section shall contain a statement in plain language that:

(a) The governing body, on a specified date, will hold a public hearing and consider an ordinance adopting or substantially amending an urban renewal plan;

(b) If the plan is a standard rate plan, or a reduced rate plan for which the consolidated billing tax rate includes a tax pledged to repay exempt bonded indebtedness that was approved by taxing district electors on or before October 6, 2001, the adoption or amendment may affect property tax rates;

(c) Sets forth the proposed maximum amount of indebtedness that can be issued or incurred under the plan or amendment;

(d) The ordinance, if approved, is subject to referendum; and

(e) A copy of the ordinance, urban renewal plan and accompanying report can be obtained by contacting a designated person within the municipality.

(4) If the municipality that activated the urban renewal agency is a county:

(a) The notice required by subsection (1) of this section shall be sent to each individual or household in one of the groups listed in subsection (1)(a) to (d) of this section, except that the notice need be sent only to those individuals or households located in a school district with territory affected or to be affected by the tax increment financing for the new urban renewal area or proposed change.

(b) In addition to the notice under paragraph (a) of this subsection, the county shall cause notice to be published in a paper of general circulation throughout the county. The published notice shall contain the information described in subsection (3) of this section, be published in

an advertisement not less than three inches in height and three inches in width and be located in a general interest section of the newspaper other than the classified advertisement section. [1991 c.459 §335f; 1997 c.541 §445; 2019 c.580 §7]

457.125 Recording of plan upon approval. A copy of the ordinance approving an urban renewal plan under ORS 457.095 shall be sent by the governing body of the municipality to the urban renewal agency. A copy of the resolution approving an urban renewal plan under ORS 457.105 shall be sent by the governing body of a municipality to the urban renewal agency. Upon receipt of the necessary approval of each municipality governing body, the urban renewal plan shall be recorded by the urban renewal agency with the recording officer of each county in which any portion of an urban renewal area within the plan is situated. [1979 c.621 §4]

457.130 [1957 c.456 §§4,5; 1979 c.621 §13; renumbered 457.035]

457.135 Conclusive presumption of plan validity. After October 3, 1979, any urban renewal plan purported to be adopted in conformance with applicable legal requirements shall be conclusively presumed valid for all purposes 90 days after adoption of the plan by ordinance of the governing body of the municipality. No direct or collateral attack on the action may thereafter be commenced. [1979 c.621 §5]

457.140 [1957 c.456 §6; 1975 c.246 §1; 1979 c.621 §14; renumbered 457.045]

457.145 [1967 c.311 §2; repealed by 1979 c.621 §15 (457.055 enacted in lieu of 457.145)]

457.150 [1957 c.456 §8; repealed by 1979 c.621 §28]

457.160 Exceptions to plan requirements for disaster areas. Notwithstanding any other provisions of ORS chapter 455 or 456 or this chapter, where the governing body of a municipality certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe respecting which the Governor has certified the need for disaster assistance under federal law, the governing body may declare a need for an urban renewal agency, if necessary, and may approve an urban renewal plan and an urban renewal project for such area without regard to the provisions requiring:

(1) That the urban renewal plan conform to the comprehensive plan and economic development plan, if any, for the municipality as a whole.

(2) That the urban renewal area be a blighted area. [1957 c.456 §15; 1979 c.621 §18; 1993 c.18 §114; 2019 c.625 §71]

457.170 Urban renewal agency's powers in planning or undertaking an urban renewal project. An urban renewal agency may plan or undertake any urban renewal project to carry out an approved urban renewal plan. In planning or undertaking an urban renewal project, the urban renewal agency has the power:

(1) To carry out any work or undertaking and exercise any powers which a housing authority is authorized to perform or exercise under ORS 456.055 to 456.235, subject to the provisions of this chapter provided, however, that ORS 456.155 and 456.160 do not limit the power of an agency in event of a default by a purchaser or lessee of land in an urban renewal plan to acquire property and operate it free from the restrictions in those sections.

(2) To carry out any rehabilitation or conservation work in an urban renewal area.

(3) To acquire real property, by condemnation if necessary, when needed to carry out the plan.

(4) To clear any areas acquired, including the demolition, removal or rehabilitation of buildings and improvements.

(5) To install, construct or reconstruct streets, utilities and site improvements in accordance with the urban renewal plan.

(6) To carry out plans for a program of the voluntary repair and rehabilitation of buildings or other improvements in an urban renewal area in accordance with the urban renewal plan.

(7) To assist in relocating persons living in, and property situated in, the urban renewal area in accordance with the approved urban renewal plan and to make relocation payments.

(8) To dispose of, including by sale or lease, any property or part thereof acquired in the urban renewal area in accordance with the approved urban renewal plan.

(9) To plan, undertake and carry out neighborhood development programs consisting of urban renewal project undertakings in one or more urban renewal areas which are planned and carried out on the basis of annual increments in accordance with the provisions of this chapter for planning and carrying out urban renewal plans.

(10) To accomplish a combination of the things listed in this section to carry out an urban renewal plan. [1957 c.456 §7; 1969 c.225 §2; 1969 c.539 §1; 1979 c.621 §19; 1995 c.79 §268]

457.180 Powers of urban renewal agencies in general. An urban renewal agency, in addition to its other powers, may:

(1) Make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements.

(2) Make plans for the enforcement of laws, codes and regulations relating to:

(a) The use of land.

(b) The use and occupancy of buildings and improvements.

(c) The repair, rehabilitation, demolition or removal of buildings and improvements.

(3) Make plans for the relocation of persons and property displaced by an urban renewal project.

(4) Make preliminary plans outlining urban renewal activities for neighborhoods to embrace two or more urban renewal areas.

(5) Conduct preliminary surveys to determine if the undertaking and carrying out of an urban renewal project is feasible.

(6) Develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and the elimination of urban blight.

(7) Engage in any other housing or community development activities specifically delegated to it by the governing body of the municipality including but not limited to land acquisition and disposition, conservation and rehabilitation, residential or business relocation, construction, leasing or management of housing, and the making of grants and loans from any available source. [1957 c.456 §10; 1975 c.382 §1]

457.190 Acquisition of funds by urban renewal agency; maximum amount of indebtedness. (1) An urban renewal agency may borrow money and accept advances, loans, grants and any other form of financial assistance from the federal government, the state, county or other public body, or from any sources, public or private, for the purposes of undertaking and carrying out urban renewal projects.

(2) An urban renewal agency may do all things necessary or desirable to secure such financial aid, including obligating itself in any contract with the federal government for federal financial aid to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default thereunder, in the same manner as a housing authority may do to secure such aid in connection with blighted area clearance and housing projects under the Housing Authorities Law.

(3)(a) Each urban renewal plan adopted by ordinance on or after July 14, 1997, that provides for a division of taxes pursuant to ORS 457.440 shall include in the plan the maximum amount of indebtedness that may be issued or incurred under the plan. Notwithstanding subsection (1) of this section, if a maximum amount of indebtedness is not included in the plan, the urban renewal agency may not issue indebtedness for which taxes divided under ORS 457.440 are to be pledged to carry out the plan.

(b) Each urban renewal plan adopted by ordinance on or after December 6, 1996, and before July 14, 1997, that provides for a division of taxes pursuant to ORS 457.440 but does not include a maximum amount of indebtedness that may be issued or incurred under the plan shall be changed, by substantial plan amendment pursuant to ORS 457.220, to include the maximum amount of indebtedness that may be issued or incurred under the plan before July 1, 2000. Notwithstanding subsection (1) of this section, if a maximum amount of indebtedness is not included in the plan on or before July 1, 2000, the urban renewal agency may not on or after July 1, 2000, issue indebtedness for which taxes divided under ORS 457.440 are to be pledged to carry out the plan.

(c)(A) Each existing urban renewal plan that provides for a division of taxes pursuant to ORS 457.420 to 457.470 may be changed by substantial amendment no later than July 1, 1998, to include a maximum amount of indebtedness that may be issued or incurred under the plan determined as described in subparagraph (B) of this paragraph. The additional notices required under ORS 457.120 are not required for an amendment adopted pursuant to this paragraph.

(B) The maximum amount of indebtedness that may be issued or incurred under the plan, as determined for purposes of meeting the requirements of this paragraph, shall be based upon good faith estimates of the scope and costs of projects, including but not limited to increases in costs due to reasonably anticipated inflation, in the existing urban renewal plan and the schedule for their completion as completion dates were anticipated as of December 5, 1996. The maximum amount of indebtedness shall be specified in dollars and cents.

(C) Notwithstanding subsection (1) of this section, if a maximum amount of indebtedness is not adopted for an existing urban renewal plan as described in this paragraph before July 1, 1998, the urban renewal agency may not collect funds under ORS 457.435.

(4) For an urban renewal plan initially approved on or after January 1, 2010, other than for a large metropolitan plan as defined in ORS 457.470, the initial maximum indebtedness that may be issued or incurred under the plan shall be established as follows:

(a) If the total assessed value in the certified statement under ORS 457.430 is less than or equal to $50 million, the initial maximum indebtedness may not exceed $50 million.

(b) If the total assessed value in the certified statement is more than $50 million and less than or equal to $150 million, the initial maximum indebtedness may not exceed $50 million plus 50 percent of the total assessed value in the certified statement that is over $50 million.

(c) If the total assessed value in the certified statement exceeds $150 million, the initial maximum indebtedness may not exceed $100 million, plus 35 percent of the total assessed value in the certified statement that is over $150 million.

(d) Beginning July 1, 2010, the dollar limits set forth in this subsection may be increased on July 1 of each year by the index used in the urban renewal report to compute the future costs of projects that will be financed under the plan.

(e) The limits in this subsection do not apply if the agency obtains concurrence as provided in ORS 457.470. [1957 c.456 §14; 1991 c.459 §333; 1997 c.541 §446; 2007 c.606 §12; 2009 c.700 §1]

Note: Section 335e, chapter 459, Oregon Laws 1991, provides:

Sec. 335e. Bonded indebtedness for project agreed to prior to September 29, 1991. Notwithstanding ORS 457.190, an urban renewal agency may issue bonded indebtedness to undertake an urban renewal project to carry out an urban renewal plan if, prior to September 29, 1991, a written contract or other written agreement for the project was made, the instrument setting forth the contract or agreement was executed and the parties were bound. The urban renewal agency of the municipality may use any of the money available to it from the issuance of the bonds for carrying out the project in accordance with the contract or agreement. [1991 c.459 §335e; 1997 c.541 §446a]

457.210 Applicability of housing cooperation law to urban renewal projects; delegation of urban renewal agency powers and functions. (1) Any state public body, as defined in ORS 456.305, shall have the same rights and powers to cooperate with and assist urban renewal agencies with respect to urban renewal projects that such state public body has pursuant to ORS 456.305 to 456.325 to cooperate and assist housing authorities with respect to housing projects in the same manner as though those sections were applicable to urban renewal agencies and projects under this chapter.

(2) Any state public body, as defined in ORS 456.305, hereby is authorized to enter into agreements with any other public body, including an urban renewal agency, respecting action to be taken pursuant to any of the powers granted by this chapter, including, but not limited to, the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

(3) An urban renewal agency hereby is authorized to delegate any of its powers or functions to the municipality or other state public body, as defined in ORS 456.305, with respect to the planning or undertaking of an urban renewal project in the area in which such municipality or other state public body is authorized to act. The municipality, or other state public body to which the powers or functions are delegated hereby is authorized to carry out or perform such powers or functions. [1957 c.456 §11]

457.220 Plan amendment; limit on additional land and increased maximum indebtedness. (1) Except for the provisions of subsections (2) and (4) of this section, an urban renewal agency shall carry out the urban renewal plan approved under ORS 457.095.

(2) Any substantial change made in the urban renewal plan shall, before being carried out, be approved and recorded in the same manner as the original plan.

(3) An urban renewal agency may not by amendments add to the urban renewal areas of a plan land that is equal to more than 20 percent of the total land area of the original plan as calculated without taking into account any subsequent reductions of the area.

(4) On or after January 1, 2010, the urban renewal agency may amend a plan that is not a large metropolitan plan as defined in ORS 457.470 to increase the maximum indebtedness, provided that:

(a) The aggregate of all amendments under this subsection may not exceed 20 percent of the plan's initial maximum indebtedness, as adjusted pursuant to paragraph (b) of this subsection.

(b) For purposes of computing the 20 percent limit on increases in maximum indebtedness, the initial maximum indebtedness may be increased annually on the anniversary date of initial approval of the plan by the index used in the urban renewal report to compute the future costs of projects that will be financed under the plan, beginning on the later of July 1, 1999, or the first anniversary of plan approval. This increase may be applied only to the first amendment to the maximum indebtedness that is made on or after January 1, 2010.

(5) The limits in subsection (4) of this section do not apply if the agency obtains concurrence as provided in ORS 457.470. [1957 c.456 §9; 1979 c.621 §20; 2009 c.700 §2; 2019 c.580 §9]

457.230 Disposition of land in urban renewal project; determination of value; obligations of purchaser or lessee; recordation. (1) The urban renewal agency shall, in accordance with the approved urban renewal plan, make land in an urban renewal project available for use by private enterprise or public agencies. Such land shall be made available at a value determined by the urban renewal agency to be its fair reuse value, which represents the value, whether expressed in terms of rental or capital price, at which the urban renewal agency in its discretion determines such land should be made available in order that it may be developed, redeveloped, cleared, conserved or rehabilitated for the purposes specified in such plan.

(2) To assure that land acquired in an urban renewal project is used in accordance with the urban renewal plan, an urban renewal agency, upon the sale or lease of such land, shall obligate purchasers or lessees:

(a) To use the land for the purposes designated in the urban renewal plan.

(b) To begin the building of their improvements within a period of time which the urban renewal agency fixes as reasonable.

(3) Any obligations by the purchaser shall be covenants and conditions running with the land where the urban renewal agency so stipulates.

(4) Any contract for the transfer of any interest in land by the urban renewal agency may be recorded in the land records of the county in which the land is situated in the same manner as any other contract for the transfer of an interest in land is recorded. [1957 c.456 §12; 1965 c.571 §1; 1967 c.312 §1]

457.240 Tax status of land leased under a plan. Any property which the urban renewal agency leases to private persons as defined in ORS 174.100 under an urban renewal plan shall have the same tax status as if such leased property were owned by such private individuals or corporations. [1957 c.456 §13; 1983 c.327 §11]

457.310 [1957 c.456 §16; repealed by 1979 c.621 §28]

457.320 Municipal assistance under plan; assumption by urban renewal agency of general obligation bond payments of municipality. In addition to the other powers granted a municipality under this chapter, a municipality may exercise any of its powers otherwise provided by law to assist in the planning or the carrying out of an urban renewal plan. Without limiting the powers granted by the preceding sentence, a municipality may issue its general obligation bonds for the purpose of assisting in the planning or the carrying out of an urban

renewal plan. The urban renewal agency of the municipality may assume payment of the general obligation bonds and may use any of the moneys available to it for that purpose. [1957 c.456 §17; 1979 c.621 §21]

457.410 [1961 c.554 §2; repealed by 1979 c.621 §28]

TAX INCREMENT FINANCING OF URBAN RENEWAL INDEBTEDNESS

457.420 Plan may provide for division of property taxes; limits on land area. (1) Any urban renewal plan may contain a provision that the ad valorem taxes, if any, levied by a taxing district in which all or a portion of an urban renewal area is located, shall be divided as provided in section 1c, Article IX of the Oregon Constitution, and ORS 457.420 to 457.470. Ad valorem taxes shall not be divided if there is no provision in the urban renewal plan for the division.

(2) No plan adopted after October 3, 1979, shall provide for a division of ad valorem taxes under subsection (1) of this section if:

(a) For municipalities having a population of more than 50,000, according to the latest state census:

(A) The assessed value for the urban renewal areas of the plan, when added to the total assessed value previously certified by the assessor for other urban renewal plans of the municipality for which a division of ad valorem taxes is provided, exceeds a figure equal to 15 percent of the total assessed value of that municipality, exclusive of any increased assessed value for other urban renewal areas and without regard to adjustments made pursuant to ORS 457.435 (2)(c), 457.455 or 457.470 (2) to (5); or

(B) The urban renewal areas of the plan when added to the areas included in other urban renewal plans of the municipality providing for a division of ad valorem taxes, exceed a figure equal to 15 percent of the total land area of that municipality.

(b) For municipalities having a population of less than 50,000, according to the latest state census:

(A) The assessed value for the urban renewal areas of the plan, when added to the total assessed value previously certified by the assessor for other urban renewal plans of the municipality for which a division of ad valorem taxes is provided, exceeds a figure equal to 25 percent of the total assessed value of that municipality, exclusive of any increased assessed value for other urban renewal areas and without regard to adjustments made pursuant to ORS 457.435 (2)(c), 457.455 or 457.470 (2) to (5); or

(B) The urban renewal areas of the plan, when added to the areas included in other urban renewal plans of the municipality providing for a division of ad valorem taxes, exceed a figure equal to 25 percent of the total land area of that municipality.

(3) Property may not be included in more than one urban renewal area. [1961 c.554 §3; 1969 c.539 §2; 1971 c.544 §4; 1979 c.621 §24; 1991 c.459 §334; 1997 c.541 §447; 2009 c.700 §3]

457.430 Certification of assessed value of property in urban renewal area; amendment. (1) As soon as practicable after the approval of a plan containing a provision authorized by ORS 457.420, the county assessor of each county in which an urban renewal area is located shall prepare, in duplicate, a certified statement of the total assessed value, as shown on the county assessment roll last certified prior to the effective date of the ordinance

approving the plan, of all of the taxable real and personal property contained in the urban renewal area in the county.

(2) Wherever only a part of an urban renewal area is located in a taxing district, the assessor also shall show in the statement required by subsection (1) of this section the assessed value of the real and personal property in the part of the urban renewal area located in the taxing district.

(3) One copy of the certified statement shall be filed by the assessor with the agency and the other copy shall constitute a part of the public records of the county assessor's office.

(4) Whenever a part of an urban renewal area comes within the territory of a taxing district either by annexation, incorporation of a new taxing district or consolidation, after the approval of a plan containing a provision authorized by ORS 457.420, the county assessor shall in the same manner as under subsection (3) of this section file a certified statement or an amendment to a certified statement to show the assessed value of the real and personal property in that part of the urban renewal area incorporated by annexation or consolidation into the taxing district. The assessed value of the real and personal property so incorporated shall be determined in the same manner and as of the same date as provided in subsections (1) and (2) of this section.

(5) When a certified statement is filed as required by subsection (1) of this section, if the law provides a reduction or increase of the valuation for tax purposes of the taxable property contained in the urban renewal area at the time of the filing, the assessor shall state the total assessed value as it is so reduced or increased. After a certified statement has been filed as required by subsection (1) of this section, if a law is enacted which provides a reduction or increase of the valuation for tax purposes of the taxable property contained in the urban renewal area at the time the certified statement was filed, the assessor shall amend the certified statement annually or as otherwise required to reduce or increase the stated total assessed value of the real and personal property accordingly. An amendment to the certified statement shall be filed in the manner provided by subsections (3) and (4) of this section.

(6)(a) Subject to subsections (4) and (5) of this section and paragraph (b) of this subsection, all certified statements and amendments thereto filed under this section before July 14, 1997, shall continue to remain in effect.

(b) Effective as of the tax year beginning on July 1, 1997, the assessor shall amend the amount of assessed value included in a certified statement by applying to the certified assessed value of each tax code area located within an urban renewal area the percentage obtained by dividing the total assessed value within the tax code area, including growth in assessed value over the certified assessed value, by the total real market value within the tax code area. [1961 c.554 §4; 1969 c.539 §3; 1979 c.621 §25; 1981 c.804 §105; 1983 s.s. c.5 §24; 1991 c.459 §335; 1997 c.541 §448]

457.435 Property tax collection methods for existing plans; special levies. (1) For each existing urban renewal plan that includes a provision for a division of ad valorem taxes under ORS 457.420 to 457.470, the municipality that activated the urban renewal agency that is carrying out the plan shall adopt an ordinance choosing one of the options listed in subsection (2) of this section as the method of collecting ad valorem property taxes sufficient to pay, when due, indebtedness issued or incurred to carry out the plan as permitted by section 11 (16), Article XI of the Oregon Constitution.

(2) The options referred to in subsection (1) of this section are as follows:

(a) Option One: To collect amounts sufficient to pay the obligations, as budgeted for the plan, from ORS 457.440, and if the amount estimated to be received from ORS 457.440 is not sufficient to meet the budgeted obligations of the plan for the tax or fiscal year, to make a

special levy in the amount of the remainder upon all of the taxable property of the municipality that activated the urban renewal agency and upon all of the taxable property lying outside the municipality but included in an urban renewal area of the plan.

(b) Option Two: To make a special levy in the amount stated in the notice given under ORS 457.440 (2) upon all of the taxable property of the municipality that activated the urban renewal agency, and upon all of the taxable property lying outside the municipality but included in an urban renewal area of the plan.

(c) Option Three: To collect an amount equal to the amount stated in the ordinance adopted as provided in subsection (1) of this section by dividing the taxes pursuant to ORS 457.440, and to make a special levy upon all of the taxable property of the municipality that activated the urban renewal agency and upon all of the taxable property lying outside the municipality but within an urban renewal area of the plan. The county assessor shall adjust the amount of the total assessed value included in the certified statement filed under ORS 457.430 so that the amount collected by dividing the taxes pursuant to ORS 457.440 does not exceed the amount stated in the ordinance to be collected by dividing the taxes pursuant to ORS 457.440.

(3)(a) The total amount obtained under an option listed in subsection (2) of this section for any plan shall not exceed the maximum amount that could have been certified to the assessor for the plan under ORS 457.440 (1995 Edition) for the tax year beginning July 1, 1997.

(b) For each tax year beginning after the 1997-1998 tax year, the limitation of paragraph (a) of this subsection shall be adjusted by a percentage change equal to the percentage change in the increment within the urban renewal area from the preceding year.

(4)(a) The ordinance choosing the option referred to in subsection (1) of this section shall be adopted no later than July 1, 1998, and shall be applicable for tax years beginning on or after July 1, 1998. If not so adopted, the municipality shall be considered to have chosen Option One as its method of collection of ad valorem property taxes sufficient to pay, when due, indebtedness issued or incurred to carry out the existing urban renewal plan. An option, once chosen, may not be changed to another option. In addition, if Option Three is chosen, the amount specified in the ordinance choosing the option to be collected by dividing the taxes pursuant to ORS 457.440 shall not be changed by subsequent ordinance or amendment to the certified statement.

(b) The option chosen, together with the particulars of the option, including but not limited to any limit on the amount to be received from ORS 457.440, shall be reflected in the notice filed by the urban renewal agency with the county assessor.

(5)(a) The county assessor, or county assessors if the taxable property is in more than one county, shall extend the special levy against all of the taxable property of the municipality that activated the urban renewal agency and all of the taxable property lying outside the municipality but included in an urban renewal area of the plan.

(b) Any amounts collected from special levies made under this section shall be paid into the special fund or funds of the urban renewal agency referred to in ORS 457.440 (6) and shall be used to pay the principal and interest to finance or refinance the existing urban renewal plan or plans of the urban renewal agency.

(6) This section applies to existing urban renewal plans with respect to principal and interest on indebtedness until the indebtedness is fully paid or it is found that deposits in the special fund are sufficient to pay the principal and interest on the indebtedness issued or incurred under the existing urban renewal plan.

(7) Nothing in this section shall prevent the funding of urban renewal indebtedness as provided under ORS 457.440. [1997 c.541 §454; 1999 c.579 §32]

457.437 Consultation with municipalities; resolution requirements. (1) Prior to the establishment of a maximum amount of indebtedness for an urban renewal plan under ORS 457.190 and before an option is adopted under ORS 457.435, the urban renewal agency that is carrying out the plan shall meet with the governing bodies of the municipality that activated the urban renewal agency and other municipalities affected by the urban renewal plan and review the proposed maximum amount of indebtedness for the plan and the agency's recommended option under ORS 457.435.

(2) After the meeting described in subsection (1) of this section, the governing bodies shall adopt resolutions in support of or opposition to the recommended option under ORS 457.435.

(3) If an affected municipality adopts a resolution in opposition to the recommended option, then the agency's recommendations may be adopted only by the adoption of a separate resolution by the municipality that activated the urban renewal agency. [1997 c.541 §454a]

457.440 Computation of amounts to be raised from property taxes; notice; rules. During the period specified under ORS 457.450:

(1) The county assessor shall determine the amount of funds to be raised each year for urban renewal within the county levied by taxing districts in accordance with Article IX, section 1c, of the Oregon Constitution, and ORS 457.420 to 457.470.

(2) Not later than July 15 of each tax year, each urban renewal agency shall determine and file with the county assessor a notice stating the amount of funds to be raised for each urban renewal area as follows:

(a) If the municipality that activated the urban renewal agency has chosen Option One as provided in ORS 457.435 (2)(a), the notice shall state that the maximum amount of funds that may be raised by dividing the taxes under Article IX, section 1c, of the Oregon Constitution, shall be raised for the agency.

(b) If the municipality that activated the urban renewal agency has chosen Option Two as provided in ORS 457.435 (2)(b), the notice shall state the amount of funds to be raised by the special levy.

(c) If the municipality that activated the urban renewal agency has chosen Option Three as provided in ORS 457.435 (2)(c), the notice shall state the amount of funds to be raised by special levy in addition to the amount to be raised by dividing the taxes as stated in the ordinance adopted under ORS 457.435 (1).

(d) For plans that are initially approved or substantially amended to increase maximum indebtedness on or after January 1, 2010, the notice must comply with ORS 457.470.

(e) If the agency limits the amount that may be raised by the division of taxes, as provided in ORS 457.455 (1), the notice shall comply with ORS 457.455 (1).

(f) If the plan is not described in paragraph (a), (b), (c), (d) or (e) of this subsection, the notice shall state that the maximum amount of funds that may be raised by dividing the taxes under Article IX, section 1c, of the Oregon Constitution, shall be raised for the agency.

(3) If a municipality has chosen Option Three pursuant to ORS 457.435, the maximum amount of funds that may be raised for an urban renewal agency by dividing the taxes as provided in Article IX, section 1c, of the Oregon Constitution, may be limited by the municipality in which the urban renewal agency is located. The decision of the municipality to limit the amount of funds to be included in the notice filed under subsection (2) of this section shall be reflected in the certified statement filed by the urban renewal agency with the county assessor.

(4) Not later than September 25 of each tax year, the assessor of any county in which a joint district is located shall provide, to the assessor of each other county in which the joint

district is located, the assessed values of the property in the joint district that is located within the county, including the certified statement value and the increment for each code area containing any urban renewal area located within the joint district, and a copy of the notice filed by the urban renewal agency for the area located within the joint district under subsection (2) of this section.

(5) The maximum amount of funds that may be raised for an urban renewal plan by dividing the taxes as provided in Article IX, section 1c, of the Oregon Constitution, shall be computed by the county assessor as follows:

(a) The county assessor shall compute, in the manner required under ORS 457.445, the total consolidated billing tax rate for each code area in which an urban renewal area of the plan is located.

(b) The assessor shall determine the amount of taxes that would be produced by extending the tax rate computed under paragraph (a) of this subsection against the increment of each code area.

(c) The total amount determined for all code areas containing urban renewal areas included within the urban renewal plan is the maximum amount of funds to be raised for the urban renewal plan by dividing the taxes.

(6)(a) The county assessor shall certify to the tax collector the amount of funds to be raised for an urban renewal agency as determined under subsection (2) of this section. The tax collector shall include the amount so certified in the percentage schedule of the ratio of taxes on property prepared under ORS 311.390 and filed with the county treasurer. Notwithstanding ORS 311.395 (6), the county treasurer shall credit the amount to the urban renewal agency and shall distribute its percentage amount to the urban renewal agency as determined by the schedule at the times other distributions are made under ORS 311.395 (7).

(b) The county assessor shall notify the urban renewal agency of the amounts received under subsection (5) of this section or amounts received pursuant to the notice provided in subsection (2) of this section for each urban renewal plan area. Any amounts received by the urban renewal agency under paragraph (a) of this subsection shall be attributed to the urban renewal plan in which the urban renewal area is included, shall be paid into a special fund of the urban renewal agency for the urban renewal plan and shall be used to pay the principal and interest on any indebtedness issued or incurred by the urban renewal agency to finance or refinance the urban renewal plan.

(7) Unless and until the total assessed value of the taxable property in an urban renewal area exceeds the total assessed value specified in the certified statement, all of the ad valorem taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds of the respective taxing districts.

(8) The agency may incur indebtedness, including obtaining loans and advances in carrying out the urban renewal plan, and the portion of taxes received under this section may be irrevocably pledged for the payment of principal of and interest on the indebtedness.

(9) The Department of Revenue shall by rule establish procedures for giving notice of amounts to be raised for urban renewal agencies and for determination of amounts to be raised and distributed to urban renewal agencies.

(10) The notice required under this section shall serve as the notice required under ORS 310.060 for the special levy described under ORS 457.435.

(11) Notwithstanding any other provision of this chapter, a city with a population of more than 500,000 on January 1, 2010, may, in lieu of its urban renewal agency, take any actions that an urban renewal agency is authorized to take under this section and any other actions that are required to certify, collect, receive, hold and apply tax revenues raised for the urban

renewal agency under Article IX, section 1c, of the Oregon Constitution, and taxes authorized for the urban renewal agency by Article XI, section 11 (16), of the Oregon Constitution. [1961 c.554 §5; 1979 c.621 §26; 1981 c.804 §106; 1983 s.s. c.5 §25; 1985 c.613 §17; 1987 c.158 §87; 1991 c.459 §335a; 1997 c.541 §449; 1999 c.579 §26; 2003 c.190 §§16,17; 2007 c.537 §7; 2009 c.700 §4; 2013 c.579 §3]

457.445 Consolidated billing tax rate; impairment certificates; election to become reduced rate plan. (1) As used in this section, "post-2012 local option tax" means a local option tax, as defined in ORS 280.040, that is approved by taxing district electors after January 1, 2013.

(2) The consolidated billing tax rate of an urban renewal plan equals the total of all taxing district ad valorem property tax rates used to extend taxes, after any adjustment to reflect tax offsets under ORS 310.105.

(3) Notwithstanding subsection (2) of this section, the consolidated billing tax rate of a standard rate plan excludes any rate derived from:

(a) An urban renewal special levy under ORS 457.435; and

(b) A post-2012 local option tax.

(4)(a) Notwithstanding subsection (3)(b) of this section, the consolidated billing tax rate of a standard rate plan includes a post-2012 local option tax imposed in a fiscal year for which the urban renewal agency files with the county assessor an impairment certificate in the manner described in paragraph (b) of this subsection not later than the May 1 immediately preceding the beginning of the fiscal year.

(b) An impairment certificate must:

(A) Identify the urban renewal plan to which it relates;

(B) Instruct the county assessor to include the post-2012 local option tax in the consolidated billing tax rate for the urban renewal plan for the ensuing fiscal year;

(C) State that the urban renewal agency has reasonably determined that excluding the post-2012 local option tax from the consolidated billing tax rate for the fiscal year under this subsection would impair contracts that the agency has entered into with owners of indebtedness incurred before October 7, 2013, to carry out the standard rate plan; and

(D) Be signed by an authorized representative of the agency.

(5)(a) The governing body of a municipality that adopted a standard rate plan, other than an existing urban renewal plan designated as an Option Three plan under ORS 457.435 (2)(c), may, by ordinance or resolution, irrevocably elect to become a reduced rate plan.

(b) An election made pursuant to this subsection applies first to the next following assessment roll if the assessor has received notice of the election from the urban renewal agency before January 1.

(6) Notwithstanding subsection (2) of this section, the consolidated billing tax rate of a reduced rate plan excludes any rate derived from:

(a) An urban renewal special levy under ORS 457.435;

(b) A local option tax, as defined in ORS 280.040;

(c) A tax pledged to repay exempt bonded indebtedness, as defined in ORS 310.140, other than exempt bonded indebtedness used to fund local government pension and disability plan obligations that, until funded by the exempt bonded indebtedness, were described in Article XI, section 11 (5), of the Oregon Constitution, that is approved by taxing district electors after October 6, 2001; and

(d) The increase in the rate of ad valorem property tax allowable under Article XI, section 11 (5)(d), of the Oregon Constitution, for a school district with a statutory rate limit on July 1,

2003, that is greater than $4.50 per $1,000 of assessed value, to the extent that the increase is excluded from local revenues, as that term is used in ORS chapter 327, and provided that the school district notifies the county assessor of the rate to be excluded for the current fiscal year no later than July 15.

(7) Notwithstanding subsection (2) of this section, the consolidated billing tax rate of a permanent rate plan excludes any rate derived from:

(a) An urban renewal special levy under ORS 457.435;

(b) A local option tax, as defined in ORS 280.040;

(c) A tax pledged to repay exempt bonded indebtedness, as defined in ORS 310.140, other than exempt bonded indebtedness used to fund local government pension and disability plan obligations that, until funded by the exempt bonded indebtedness, were described in Article XI, section 11 (5), of the Oregon Constitution; and

(d) Except for plans that had been standard rate plans prior to September 29, 2019, the increase in the rate of ad valorem property taxes allowable under Article XI, section 11 (5)(d), of the Oregon Constitution, for a school district with a statutory rate limit on July 1, 2003, that is greater than $4.50 per $1,000 of assessed value, to the extent that the increase is excluded from local revenues, as that term is used in ORS chapter 327, and provided that the school district notifies the county assessor of the rate to be excluded for the current fiscal year no later than July 15. [2009 c.317 §2; 2013 c.579 §2; 2019 c.580 §8]

457.450 Notice to tax assessor; provision for debt retirement; distribution of remaining tax increment funds. (1)(a) ORS 457.440 shall first apply to the assessment roll next following the tax roll referred to in ORS 457.430 if the assessor is provided notice of a plan adoption or amendment changing area boundaries by the agency prior to January 1 before the tax year to which the plan first applies.

(b) If the assessor is not provided notice of plan adoption or amendment changing area boundaries by the agency prior to January 1 before the tax year to which ORS 457.440 would otherwise first apply, then ORS 457.440 shall first apply to the assessment roll next following the assessment roll described in paragraph (a) of this subsection.

(2) When the principal and interest on the maximum indebtedness of an urban renewal plan to which the portion of taxes is irrevocably pledged for payment under ORS 457.435 or 457.440 is fully paid, or it is found that deposits in the special fund are sufficient to fully pay principal and interest on the maximum indebtedness either through direct payment of the indebtedness or by payment of principal and interest on bonds or notes issued to finance the indebtedness, the agency shall notify the assessor of that fact.

(3) All moneys remaining unexpended from the special fund provided for in ORS 457.435 or 457.440, after payment of all the principal and interest on indebtedness is provided for, shall be turned over to the county treasurer by the agency and prorated by the treasurer back to the taxing districts in which the area, or part thereof, is located, in proportion to the amount of money in the fund attributable to each taxing district for the last fiscal year in which tax levy moneys were paid into the special fund of the agency under ORS 457.435 or 457.440. [1961 c.554 §6; 1971 c.426 §1; 1979 c.621 §27; 1991 c.459 §335b; 1997 c.541 §450; 2009 c.700 §5]

457.455 Limiting collections; notification; consultation with taxing districts. (1) If the maximum amount of funds under ORS 457.440 is not required to pay the principal and interest on indebtedness incurred for an urban renewal plan, the urban renewal agency may take formal action to limit collections under a plan for a single fiscal year, and may notify the county assessor pursuant to ORS 457.440 (2)(e) to compute the division of taxes for the urban

renewal area using an assessed value that is equal to the amount specified by the agency. The assessor may not use an amount that is greater than the increment.

(2) If the maximum amount of funds under ORS 457.440 is not required to pay the principal and interest on indebtedness incurred for an urban renewal plan, the urban renewal agency may limit future collections under a plan by notifying the county assessor to permanently increase the amount of the total assessed value included in the certified statement filed under ORS 457.430. The assessed value included in the certified statement may not be subsequently decreased except in connection with boundary changes.

(3) Before taking formal action under this section, the urban renewal agency shall consult and confer with each taxing district affected by the urban renewal plan. [2009 c.700 §7]

457.460 Agency financial statement required; contents; notice; agency representative to consult with taxing districts. (1) Not later than January 31 of each year, an urban renewal agency shall prepare a statement, on the same basis on which its financial statements are prepared, containing:

(a) The amount of moneys received during the preceding fiscal year under ORS 457.420 to 457.470 and from indebtedness incurred under ORS 457.420 to 457.470;

(b) The purposes and amounts for which any moneys received under ORS 457.420 to 457.470 and from indebtedness incurred under ORS 457.420 to 457.470 were expended during the preceding fiscal year;

(c) An estimate of moneys to be received during the current fiscal year under ORS 457.420 to 457.470 and from indebtedness incurred under ORS 457.420 to 457.470;

(d) A budget setting forth the purposes and estimated amounts for which the moneys that have been or will be received under ORS 457.420 to 457.470 and from indebtedness incurred under ORS 457.420 to 457.470 are to be expended during the current fiscal year;

(e) The maximum indebtedness for each urban renewal area included in an urban renewal plan of the agency, including the amount of indebtedness incurred through the end of the immediately preceding fiscal year; and

(f) An analysis of the impact, if any, of carrying out the urban renewal plan on the tax collections for the preceding year for all taxing districts included under ORS 457.430.

(2)(a) The statement required by subsection (1) of this section shall be filed with the governing body of the municipality and distributed to each taxing district affected by an urban renewal plan of the agency. Notice shall be published that the statement has been prepared and is on file with the municipality and the agency and the information contained in the statement is available to all interested persons. The notice shall be published once a week for not less than two successive weeks before March 1 of the year in which the statement is filed, in accordance with ORS 457.115. The notice shall summarize the information required under subsection (1)(a) to (e) of this section and shall set forth in full the information required under subsection (1)(f) of this section.

(b) A representative of the agency shall be available to consult with affected taxing districts and respond to questions. [1979 c.621 §23; 1991 c.459 §335c; 1997 c.541 §451; 2009 c.700 §8; 2019 c.580 §10]

457.470 Modification of assessed value; indexing; concurrence of taxing districts; rules. (1) As used in this section, unless the context requires otherwise:

(a) "Assumed increment" means the assessed value of the increment in the prior year, increased by the average percentage increase of the increment, if any, during the three prior years.

(b) "Large metropolitan plan" means a plan for an urban renewal area by a city with a population of more than 500,000 on January 1, 2010, that is either first approved on or after January 1, 2010, or is substantially amended to increase maximum indebtedness on or after January 1, 2010.

(c) "Maximum division of taxes" means the maximum amount of funds that may be raised for an urban renewal plan by dividing the taxes as provided in section 1c, Article IX of the Oregon Constitution, as described in ORS 457.440 (5), without regard to notices to assessors under this section or ORS 457.455 (1) or adjustments made pursuant to ORS 457.435 (2)(c).

(d) "Transition amount" means the maximum division of taxes for a plan in the year in which the plan is first substantially amended to increase maximum indebtedness on or after January 1, 2010.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, an urban renewal agency may notify the assessor to collect the maximum division of taxes for a plan, other than a large metropolitan plan, that is first approved on or after January 1, 2010.

(b) Beginning with the later of the 11th year after the initial approval of the plan or the first year after the year in which the maximum division of taxes equals or exceeds 10 percent of the initial maximum indebtedness in the plan, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an assessed value that is not greater than the sum of:

(A) The amount of assessed value the agency estimates will produce division of tax revenues equal to 10 percent of the initial maximum indebtedness in the plan; and

(B) 25 percent of the amount by which the assumed increment exceeds the assessed value of the increment the agency estimates will produce division of tax revenues equal to 10 percent of the initial maximum indebtedness in the plan.

(c) Beginning with the first year after the year in which the division of taxes equals or exceeds 12.5 percent of the initial maximum indebtedness in the plan, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an amount of assessed value that the agency estimates will produce division of tax revenues that does not exceed 12.5 percent of the initial maximum indebtedness in the plan.

(d) After computing the assessed value as required under paragraph (b) or (c) of this subsection, an urban renewal agency shall further modify the value if, for reasons other than use of the assumed increment, the value included in the prior year's notice to the assessor resulted in division of tax revenues different from the respective target amounts under paragraphs (b) and (c) of this subsection. The modification under this paragraph may not exceed an amount that would result in the difference between the actual revenues and the target amounts.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, an urban renewal agency may notify the assessor to collect the maximum division of taxes for a plan, other than a large metropolitan plan, that is substantially amended on or after January 1, 2010, to increase maximum indebtedness.

(b) Beginning with the later of the year after the year in which the plan is substantially amended or the 11th year after the plan was initially approved, when the maximum division of taxes exceeds 10 percent of the initial maximum indebtedness in the plan, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an assessed value that is not greater than the sum of:

(A) The amount of assessed value the agency estimates will produce division of tax revenues equal to the greater of:

(i) 10 percent of the initial maximum indebtedness in the plan; or

(ii) The transition amount; and

(B) 25 percent of the amount by which the assumed increment exceeds the assessed value of the increment the agency estimates will produce division of tax revenues equal to the greater of:

(i) 10 percent of the initial maximum indebtedness in the plan; or

(ii) The transition amount.

(c) Beginning with the first year after the year in which the division of taxes equals or exceeds the greater of 12.5 percent of the initial maximum indebtedness in the plan or the transition amount, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an amount of assessed value that the agency estimates will produce division of tax revenues that does not exceed the greater of 12.5 percent of the initial maximum indebtedness in the plan or the transition amount.

(d) After computing the assessed value as required under paragraph (b) or (c) of this subsection, an agency shall further modify the value if, for reasons other than use of the assumed increment, the value included in the prior year's notice to the assessor resulted in division of tax revenues different from the respective target amounts under paragraphs (b) and (c) of this subsection. The modification under this paragraph may not exceed an amount that would result in the difference between the actual revenues and the target amounts.

(4)(a) Except as provided in paragraphs (b) to (d) of this subsection, an urban renewal agency may notify the assessor to impose the maximum division of taxes for a large metropolitan plan that is initially approved on or after January 1, 2010.

(b) In the first year after the year in which the maximum division of taxes equals or exceeds three percent of the initial maximum indebtedness in the plan, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an assessed value that is not greater than the sum of:

(A) The amount of assessed value the agency estimates will produce division of tax revenues equal to three percent of the initial maximum indebtedness in the plan; and

(B) 75 percent of the amount by which the assumed increment exceeds the assessed value of the increment the agency estimates will produce division of tax revenues equal to three percent of the initial maximum indebtedness in the plan.

(c) Except as provided in paragraph (d) of this subsection, beginning with the year after the year described in paragraph (b) of this subsection, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an assessed value that is not greater than the sum of:

(A) The amount of assessed value the agency estimates will produce division of tax revenues equal to the greatest amount of division of tax revenues the agency was permitted to use in any prior year to compute assessed value under this paragraph or paragraph (b) of this subsection; and

(B) 75 percent of the amount by which the assumed increment exceeds the assessed value of the increment the agency estimates will produce division of tax revenues equal to the greatest amount of division of tax revenues the agency was permitted to use in any prior year under this paragraph or paragraph (b) of this subsection.

(d) Beginning with the first year after the year described in paragraph (c) of this subsection in which the division of tax revenues equals or exceeds 10 percent of the initial maximum indebtedness in the plan, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an amount of assessed value

the agency estimates will produce division of tax revenues that does not exceed 10 percent of the initial maximum indebtedness in the plan.

(e) After computing the assessed value as required under paragraph (b), (c) or (d) of this subsection, an agency shall further modify the value if, for reasons other than use of the assumed increment, the value included in the prior year's notice to the assessor resulted in division of tax revenues different from the respective target amounts under paragraphs (b) to (d) of this subsection. The modification under this paragraph may not exceed an amount that would result in the difference between the actual revenues and the target amounts.

(5)(a) As used in this subsection, "substantial amendment" refers to the first substantial amendment to increase maximum indebtedness for the urban renewal plan after January 1, 2010.

(b) This subsection applies to an urban renewal plan that becomes a large metropolitan plan because it is substantially amended to increase its maximum indebtedness on or after January 1, 2010. This subsection applies beginning in the first year after the year in which the urban renewal plan is first amended to increase its maximum indebtedness on or after January 1, 2010. Except as provided in paragraphs (c) to (e) of this subsection, an urban renewal agency may notify the assessor to impose the maximum division of taxes.

(c) In the first year following a year that the maximum division of taxes exceeds three percent of the maximum indebtedness in effect for the plan immediately before the substantial amendment, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an assessed value that is not greater than the sum of:

(A) The amount of assessed value the agency estimates will produce division of tax revenues equal to the greater of:

(i) The transition amount; or

(ii) Three percent of the maximum indebtedness in the plan immediately before the substantial amendment; and

(B) 75 percent of the amount by which the assumed increment exceeds the assessed value of the increment the agency estimates will produce division of tax revenues equal to the greater of:

(i) The transition amount; or

(ii) Three percent of the maximum indebtedness in the plan immediately before the substantial amendment.

(d) Except as provided in paragraph (e) of this subsection, beginning with the year after the year described in paragraph (c) of this subsection, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an assessed value that is not greater than the sum of:

(A) The amount of assessed value the agency estimates will produce division of tax revenues equal to the greatest amount of division of tax revenues the agency was permitted to use in any prior year to compute assessed value under this paragraph or paragraph (c) of this subsection; and

(B) 75 percent of the amount by which the assumed increment exceeds the assessed value of the increment the agency estimates will produce division of tax revenues equal to the greatest amount of division of tax revenues the agency was permitted to use in any prior year under this paragraph or paragraph (c) of this subsection.

(e) Beginning with the first year after the year in which the division of tax revenues equals or exceeds the greater of the transition amount or 10 percent of the maximum indebtedness in effect for the plan immediately before the substantial amendment, the agency shall notify the

assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an amount of assessed value that is not greater than an amount the agency estimates will produce division of tax revenues equal to the greater of the transition amount or 10 percent of the maximum indebtedness in effect for the plan immediately before the substantial amendment.

(f) After computing the assessed value as required under paragraph (c), (d) or (e) of this subsection, an agency shall further modify the value if, for reasons other than use of the assumed increment, the value included in the prior year's notice to the assessor resulted in division of tax revenues different from the respective target amounts under paragraphs (c) to (e) of this subsection. The modification under this paragraph may not exceed an amount that would result in the difference between the actual revenues and the target amounts.

(6)(a) The initial maximum indebtedness for a large metropolitan plan that is initially approved after January 1, 2010, shall be established as provided in ORS 457.190 (4)(a) to (c).

(b) Beginning in 2010, the dollar amounts in this subsection may be increased on July 1 of any year by the percent change in average construction costs since July 1, 2009, according to the Engineering News-Record Northwest (Seattle, Washington) Construction Cost Index. The adjusted dollar amounts may be used only when a large metropolitan plan is initially approved.

(c) The maximum indebtedness may not be increased by more than 20 percent of the initial maximum indebtedness of the plan.

(d) The maximum indebtedness for a plan that becomes a large metropolitan plan because it is substantially amended on or after January 1, 2010, to increase its maximum indebtedness may not be increased above 20 percent of the maximum indebtedness in effect for the plan immediately before the first substantial amendment to increase maximum indebtedness that was made on or after January 1, 2010.

(7) Limitations imposed under this section and ORS 457.190 (4), 457.220 (4) and 457.455 do not apply to the extent the municipality approving a plan obtains the written concurrence of taxing districts imposing at least 75 percent of the amount of taxes imposed under permanent rate limits in the urban renewal area. For plans that are initially approved or substantially amended on or after January 1, 2010, compliance with this section is determined based on the amount of taxes imposed under permanent rate limits in the fiscal year prior to the fiscal year in which the plan is approved or amended, as applicable.

(8) For purposes of this section, a plan is treated as approved or amended on the day on which the municipality took final action to enact the nonemergency ordinance approving or amending the plan.

(9) The amounts shown in the certified statement filed under ORS 457.430 are not affected by subsections (2) to (5) of this section. If the increment for an area is less than the assessed value that the assessor is directed to use under subsections (2) to (5) of this section, the division of taxes shall be computed based on the increment and the assessor shall impose the maximum division of taxes for the plan.

(10)(a) Notwithstanding subsection (1) of this section, as used in this subsection, "transition amount" means the maximum division of taxes for the plan in the fiscal year that the first amendment made after June 1, 2008, to increase maximum indebtedness takes effect.

(b) Notwithstanding any provisions in this section to the contrary, an urban renewal plan that was first approved in 1998 and had an initial maximum indebtedness of $224,780,350 may be substantially amended after June 1, 2008, to increase maximum indebtedness by not more than $343,719,650.

(c) Except as provided in paragraph (d) of this subsection, an urban renewal agency may notify the assessor to collect the maximum division of taxes for an urban renewal plan

described in paragraph (b) of this subsection that is substantially amended to increase its maximum indebtedness after June 1, 2008.

(d) Beginning with the first fiscal year after the fiscal year in which the first amendment made after June 1, 2008, to increase maximum indebtedness in the plan described in paragraph (b) of this subsection takes effect that the maximum division of taxes exceeds three percent of the maximum indebtedness in effect for the plan immediately after the first amendment made after June 1, 2008, to increase maximum indebtedness takes effect, the agency shall notify the assessor pursuant to ORS 457.440 (2)(d) to compute the division of taxes for the urban renewal area using an assessed value that is the sum of:

(A) The amount of assessed value the agency estimates will produce division of tax revenues equal to the greater of:

(i) The transition amount; or

(ii) Three percent of the maximum indebtedness in effect for the plan immediately after the first amendment made after June 1, 2008, to increase maximum indebtedness takes effect; and

(B) 75 percent of the amount by which the assumed increment exceeds the assessed value of the increment the agency estimates will produce division of tax revenues equal to the greater of:

(i) The transition amount; or

(ii) Three percent of the maximum indebtedness in effect for the plan immediately after the first amendment made after June 1, 2008, to increase maximum indebtedness takes effect.

(e)(A) To the extent permitted by law, a plan amendment described in this subsection shall provide direct economic benefits to the county in which the plan's urban renewal area is located in the following amounts:

(i) If the plan is substantially amended to increase maximum indebtedness by $343,719,650 or more, at least $35,000,000.

(ii) If the plan is amended to increase maximum indebtedness by less than $343,719,650, no less than 10.18 percent of any increase in maximum indebtedness.

(B) Benefits required under subparagraph (A) of this paragraph shall be paid as follows:

(i) $10,000,000 no later than June 30, 2014; and

(ii) The balance no later than June 30, 2021.

(11)(a) The Director of the Department of Revenue shall adopt rules necessary to apportion assessed value among tax code areas in an urban renewal area for which the urban renewal agency has notified the assessor pursuant to this section or ORS 457.440 (2)(d) or 457.455 to compute the division of taxes.

(b) The director may adopt any rule necessary or convenient for the imposition and collection of taxes under this section or ORS 457.455.

(12) The taxing districts affected by the urban renewal plan and the urban renewal agency are not liable for any amount by which amounts intended to be collected pursuant to this section differ from the targeted amounts in subsections (2) to (5) of this section. The sole remedy for any difference is the agency's modification of assessed value in subsequent years' notices as provided in subsections (2)(d), (3)(d), (4)(e) and (5)(f) of this section. [2009 c.700 §10]

Tony Konkol

From: James Nicita <james.nicita@gmail.com>
Sent: Monday, March 3, 2025 1:53 PM
To: Mike Mitchell; Rocky Smith, Jr.; Adam Marl; Denyse McGriff; Scott Wilson; Laurie Ariniello; Doug Neeley
Cc: Tony Konkol; James Graham; Bill Kabeiseman
Subject: Potential amendments to Section 59 of OC Charter
Attachments: Section 59 Amendment No. 1.pdf; Section 59 Amendment No. 2.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Urban Renewal Commission:

As a follow up to my public comment at the last URC work session, please find attached two attempts to reduce to writing the suggestions I made as to how the city commission might seek amendments to Section 59 that would not be as extreme as going to court to invalidate Section 59 altogether:

1) Having the vote requirement apply only to bonded indebtedness above a fixed amount. In the attached I use the example of $250,000, which is above the figure the City is using for its new building rehabilitation program.

2) Having the vote requirement apply only to bonded indebtedness that exceeds a 24-month "promise to pay."

Thank you.

James Nicita
Oregon City

Section 59 Urban Renewal Agency.

The urban renewal agency of the city (the "Agency") shall not issue bonded indebtedness after the effective date of this section unless the bonded indebtedness complies with the restrictions of this section. The commission shall not approve any amendment to an urban renewal plan after the effective date of this section unless the plan requires that bonded indebtedness issued to carry out the plan be issued in compliance with the restrictions of this section.

A. **Individual issuance of** ~~B~~bonded indebtedness **in excess of $250,000** ~~issued~~ by the Agency after the effective date of this section shall either:

(i) Be approved by the voters of the city;

(ii) Be issued to refund lines of credit, bonds or other borrowings that were executed before the effective date of this section; or,

(iii) Be issued to finance written commitments of the Agency that were entered into before the effective date of this section.

B. Each urban renewal plan of the Agency that exists on the effective date of this section is hereby amended to add the following provision: "No bonded indebtedness shall be issued under this plan except in compliance with the requirements of the Charter of the City of Oregon City. Any amendment of the preceding sentence must be approved by a non-emergency ordinance of the city."

C. For purposes of this section "bonded indebtedness" has the meaning defined for that term in ORS 310.140(3), as that section of the statutes exists on the date this section of the charter is approved by the voters of the city. That statute defines "bonded indebtedness" to mean "any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future."

D. This section shall not limit the Agency's rights or obligations under any lines of credit, bonds or other borrowings that were executed prior to the effective date of this section.

E. After June 30, 2016, the City of Oregon City, the Urban Renewal Agency of the City of Oregon City, or any agency created in whole or in part by the city, whether acting alone or in concert with other persons, entities or agencies:

(a) Shall not finance, or authorize the financing of, any urban renewal plan or project, in whole or in part, with tax increment financing revenues.

(b) Shall not borrow or spend, or authorize the borrowing or spending of, money to buy land or property for the purpose of urban renewal, or the development of property not owned by the city.

(c) Shall use any and all existing tax increment revenues solely for the purpose of retiring existing Urban Renewal Agency debt.

(Res. No. 12-27, adopted by voters at the City election held November 6, 2012; Charter Ord. of 6-30-16; Res. No. 16-25, adopted by voters at the City election held November 8, 2016 which added part E. to Section 59. Clackamas County Court Case #16CV42887 declared that part E. of Section 59 is unenforceable as preempted by state law)

Section 59 Urban Renewal Agency.

The urban renewal agency of the city (the "Agency") shall not issue bonded indebtedness after the effective date of this section unless the bonded indebtedness complies with the restrictions of this section. The commission shall not approve any amendment to an urban renewal plan after the effective date of this section unless the plan requires that bonded indebtedness issued to carry out the plan be issued in compliance with the restrictions of this section.

A. Bonded indebtedness **exceeding 24 (twenty-four) months** issued by the Agency after the effective date of this section shall either:

(i) Be approved by the voters of the city;

(ii) Be issued to refund lines of credit, bonds or other borrowings that were executed before the effective date of this section; or,

(iii) Be issued to finance written commitments of the Agency that were entered into before the effective date of this section.

B. Each urban renewal plan of the Agency that exists on the effective date of this section is hereby amended to add the following provision: "No bonded indebtedness shall be issued under this plan except in compliance with the requirements of the Charter of the City of Oregon City. Any amendment of the preceding sentence must be approved by a non-emergency ordinance of the city."

C. For purposes of this section "bonded indebtedness" has the meaning defined for that term in ORS 310.140(3), as that section of the statutes exists on the date this section of the charter is approved by the voters of the city. That statute defines "bonded indebtedness" to mean "any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future."

D. This section shall not limit the Agency's rights or obligations under any lines of credit, bonds or other borrowings that were executed prior to the effective date of this section.

E. After June 30, 2016, the City of Oregon City, the Urban Renewal Agency of the City of Oregon City, or any agency created in whole or in part by the city, whether acting alone or in concert with other persons, entities or agencies:

(a) Shall not finance, or authorize the financing of, any urban renewal plan or project, in whole or in part, with tax increment financing revenues.

(b) Shall not borrow or spend, or authorize the borrowing or spending of, money to buy land or property for the purpose of urban renewal, or the development of property not owned by the city.

(c) Shall use any and all existing tax increment revenues solely for the purpose of retiring existing Urban Renewal Agency debt.

(Res. No. 12-27, adopted by voters at the City election held November 6, 2012; Charter Ord. of 6-30-16; Res. No. 16-25, adopted by voters at the City election held November 8, 2016 which added part E. to Section 59. Clackamas County Court Case #16CV42887 declared that part E. of Section 59 is unenforceable as preempted by state law)

Tony Konkol

From:	James Nicita <james.nicita@gmail.com>
Sent:	Sunday, February 23, 2025 3:23 PM
To:	Rocky Smith, Jr.; Doug Neeley; Denyse McGriff; Adam Marl; Laurie Ariniello; Mike Mitchell; Scott Wilson
Cc:	Tony Konkol; Bill Kabeiseman; James Graham
Subject:	Fwd: February 11, 2025 Urban Renewal Work Session Comments - Section 59 of Oregon City Charter
Attachments:	2025-02-09 Response to City Attorney UR Right to Vote.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Urban Renewal Commission:

Here is a follow-up to my February 9 memo to you regarding the continuing viability of the citizen right to vote on urban renewal debt, Section 59(a)(i) of the city charter of Oregon City, notwithstanding the invalidation of Section 59(e) of the charter per the holding of the Court of Appeals in the *URC v Williams* case that "the charter cannot control an urban renewal agency." I am reattaching that memo to this email.

I have found the video of the city commission work session of January 11, 2011, and am linking to it here:

https://www.youtube.com/watch?v=q9uxDKO-caY

At min. 1:15:30, the former city attorney who drafted Section 59(a)-(d) of the charter, Ed Sullivan, explains why he drafted the provision the way he did.

His reasoning completely validates my argument to the URC in my February 9 memo.

Mr. Sullivan thoroughly anticipated the *URC v Williams* holding that "the charter cannot control an urban renewal agency. And yet, he addressed that very problem in the way he drafted the key element of Section 59(a)-(d) of the charter.

He explained that it was difficult to draft the amendment, because there was a problem in trying to control the urban renewal agency, a separate unit of government, through the city charter.

The solution he found was to rely on the point of intersection between the role of the city commission, on the one hand, and the urban renewal agency on the other: namely, when, pursuant to state law, the city commission adopts or amends an urban renewal plan formulated by the URA. This is precisely what I explain in my February 9 memo.

By wording the charter provision such that the city commission *has to include the right to vote in the urban renewal plan itself* when the city commission amends an urban renewal plan, there is no conflict with the urban renewal statute.

And, he also notes that he even ran the draft by the bond counsel for the urban renewal agency, Mr. Harvey Rogers, who signed off on the mechanism that Mr. Sullivan came up with.

By contrast, our current city attorney, Mr. Kabeiseman, I do not think has shared this background information with the URC. Nor, at least in any public meeting, does he appear to have ever acknowledged the continuing validity of Section 59(a)(i) despite the *URC v. Williams* case.

This is extremely ironic, given that Mr. Sullivan was Mr. Kabeiseman's employer and mentor. I am quite sure that back in 2011, Mr. Kabeiseman was fully aware of the mechanism that Mr. Sullivan had devised of integrating the right to vote into the urban renewal plan as part of any amendment.

And in fact, that is exactly what both the city commission did on January 18, 2023. *The city commission incorporated the right to vote into the amended urban renewal plan* precisely in the manner that Mr. Sullivan had devised in 2011, and which is now codified in Section 59(a)(i) of the city charter.

I hope the URC will seriously consider whether Mr. Konkol and Mr. Kabeiseman are leading the URC into expending - and wasting - tens of thousands of dollars on litigation that the URC will very likely lose.

James Nicita
Oregon City

---------- Forwarded message ---------
From: **James Nicita** <james.nicita@gmail.com>
Date: Sun, Feb 9, 2025 at 9:55 PM
Subject: February 11, 2025 Urban Renewal Work Session Comments - Section 59 of Oregon City Charter
To: Mike Mitchell <mmitchell@orcity.org>, Rocky Smith, Jr. <rsmith@orcity.org>, Denyse McGriff <dmcgriff@orcity.org>, Adam Marl <amarl@orcity.org>, Scott Wilson <swilson@orcity.org>, <dneeley@orcity.org>, <lariniello@orcity.org>
Cc: Tony Konkol <tkonkol@orcity.org>, Bill Kabeiseman <billkab@batemanseidel.com>, <jgraham@orcity.org>

Dear Urban Renewal Commissioners:

Please find a memo attached in regards to the above-referenced agenda item.

James Nicita
Oregon City

MEMORANDUM

DATE: February 9, 2025

TO: Oregon City Urban Renewal Commission

FROM: James Nicita, Oregon City resident and taxpayer

RE: Response to city attorney claims regarding potential legal vulnerability of Section 59 of the city charter of Oregon City

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This memo responds to the attempts by the city manager and the city attorney to convince the urban renewal commission (URC) and city commission that the right to vote provision in Section 59 of the city charter of Oregon City is legally invalid. I respectfully suggest that they are not giving the urban renewal commissioners or the city commissioners the full, fair, and balanced story.

The reasons are lengthy, and far beyond the capacity to convey in one digestible memorandum, but I believe it is useful to highlight one of the significant ways that their opinion is contestable, in hopes that the URC and city commission will be inspired to make a good faith effort to fully explore the legal reasoning as to why the right to vote provision should be left alone.

Mr. Kabeiseman's thumbnail distillation of the Oregon Court of Appeals' holding in *URC v. Williams* has been that "the charter cannot control the urban renewal agency (URA)."

Taking Mr. Kabeiseman's own distillation as the point of departure, the charter right to vote provision nevertheless survives.

Attached is Section 59 of the charter, with strikethrough text deleting the provisions that are arguably invalid under the "charter cannot control the URA" reasoning. Specifically, all of Section 59(E), which was the subject of *URC v. Williams;* the first sentence of Section 59; and all of Section 59(B).

Critically and decisively, however, the second sentence of Section 59 survives. I have highlighted this sentence in ***bold italics***:

The commission shall not approve any amendment to an urban renewal plan after the effective date of this section unless the plan requires that bonded indebtedness issued to carry out the plan be issued in compliance with the restrictions of this section.

The "commission" referred to in this sentence is the city commission, as it is throughout the charter.

This holding that "the charter cannot control the URA" does not apply here. This sentence of the charter is not attempting to control the URA. In this sentence, the charter is controlling the ***commission.***

It would be an absurdity to argue that the city charter cannot control the commission. The commission is nothing but a creation of the charter. The charter directly controls the commission at several points throughout the charter.

The UR statute itself emphasizes that the city commission (the "governing body of the municipality") is the ultimate authority over both the URA and the urban renewal plan; namely, in the creation of the URA, the adoption of the UR plan, the amendment of the UR plan, and the termination of the URA:

457.035 Urban renewal agencies; creation; ordinance to exercise powers; area of operation. (1) In each municipality, as defined in ORS 457.010, there hereby is created a public body corporate and politic to be known as the "urban renewal agency" of the municipality. However, the urban renewal agency shall not exercise its powers until or unless *the governing body of the municipality, by nonemergency ordinance*, declares that blighted areas exist in the municipality and that there is need for an urban renewal agency to function in the municipality and elects to have the powers of an urban renewal agency exercised in any of the three ways provided in ORS 457.045.

457.045 Election of method of exercise of urban renewal agency's powers. *The governing body of a municipality shall, in the ordinance* adopted under ORS 457.035, elect to have the powers of an urban renewal agency under this chapter exercised in one of the following ways…

457.075 Termination of urban renewal agency. If the governing body of a municipality which has an urban renewal agency under ORS 457.035 finds that there no longer exists a need for an urban renewal agency in the municipality, *the governing body shall provide, by ordinance, for a termination of the agency* and a transfer of the agency's facilities, files and personnel to the municipality.

457.095 Approval of plan by ordinance; required contents of ordinance; notice. (1) *The governing body of a municipality,* upon receipt of a proposed urban renewal plan and report from the municipality's urban renewal agency and after public notice and hearing and consideration of public testimony and planning commission and taxing district recommendations, if any, *may*

approve the urban renewal plan. The approval shall be *by nonemergency ordinance* that incorporates the plan by reference.

457.220 Plan amendment; limit on additional land and increased maximum indebtedness. (1) Except for the provisions of subsections (2) and (4) of this section, an urban renewal agency shall carry out the urban renewal plan approved under ORS 457.095. (2) Any substantial change made in the urban renewal plan shall, before being carried out, *be approved and recorded in the same manner as the original plan*…[JN Note: That is, by a nonemergency ordinance of the government body of the municipality.]

The power of the city commission to amend the urban renewal plan in ORS 457.095 / 457.220 is reflected in the second sentence of charter Section 59, as quoted in ***bold italics*** above.

The result is the following: Because the charter can control the city commission, nothing prevents the charter from requiring the city commission to include the right to vote requirement in any amended urban renewal plan, pursuant to the second sentence of Section 59, and Section 59(A)(i).

And as a matter of fact, this is exactly what happened with the current version of the urban renewal plan.

On December 21, 2022, the URC gave final approval to the eleventh amended Oregon City urban renewal plan, which is the current plan. As demonstrated beginning at roughly min. 35:00 of this video, during the meeting Mr. Konkol and Mr. Kabeiseman attempted to get the URC to remove the right to vote provision from the draft amended plan, relying on the exact same arguments that they are making now:

https://www.youtube.com/watch?v=edG_8C3_g-A

The URC rejected the attempt. The URC instead approved the amended plan with the right to vote requirement still in the text of the final plan.

Then on January 18, 2023, the city commission gave final approval to the amended urban renewal plan, including the vote requirement in the text of the plan, consistent with the second sentence of Section 59, and Section 59(A)(i) of the charter of Oregon City.

Both the URC and the city commission, consistent with the duly amended urban renewal plan, thereafter referred the vote on "bonded indebtedness" to the voters via a May 2023 ballot measure: Measure 3-597. This was the only time such a request has ever been referred to the voters.

Nothing regarding the foregoing is contrary or antithetical to the UR statute. The charter right to vote is public involvement, and the UR statute itself requires public involvement "in all stages of the development of an urban renewal plan." ORS 457.085(1). The *URC v. Williams* court was firm that Section 59(E) was in fact fully and completely contrary and antithetical to the UR statute – because its intent was in fact effectively to shut down the whole OC UR program – but by contrast the right to vote requirement is merely an enhanced public participation provision regarding one of many aspects of the UR program: the issuance of bonded indebtedness.

Frankly I think the URC would have an extremely difficult time convincing a court that the right to vote requirement defeats the purposes of the UR statute, when there has only been one attempt at a public vote since it was enacted by the voters in 2012. Indeed, if a competent ballot measure truly focusing on downtown (unlike the misleading lawn signs of 2023 Measure 3-597) would have been presented to the voters, I think it would have passed easily. Likewise, I think a ballot measure today focusing on the courthouse would pass easily. I myself would campaign for that, including paying for a ballot statement in favor.

Finally, the URC and city commission will have an additional problem explaining to a court why they are resorting to litigation now, when they had the opportunity simply not to include the right to vote provision in the UR plan in December of 2022 and January of 2023, under the exact same reasoning that Mr. Konkol and Mr. Kabeiseman are still advancing now. Instead, the URC and city commission did in fact thereafter put out Measure 3-597 for a public vote in 2023. Would the URC and the city commission have turned a "blind eye" to any illegality now claimed if the voters had approved Measure 3-597?

Additional arguments as to why the right to vote provision in the charter survives could go on for several more pages, and I am willing to continue to engage the URC in such a dialogue.

However, that is frankly not my job. It is the job and the duty of the city attorney to give the URC and city commission full, balanced, and complete information and reasoning they need to make an appropriate decision.

Section 59 Urban Renewal Agency.

~~The urban renewal agency of the city (the "Agency") shall not issue bonded indebtedness after the effective date of this section unless the bonded indebtedness complies with the restrictions of this section.~~ ***The commission shall not approve any amendment to an urban renewal plan after the effective date of this section unless the plan requires that bonded indebtedness issued to carry out the plan be issued in compliance with the restrictions of this section.***

A. Bonded indebtedness issued by the Agency after the effective date of this section shall either:

(i) Be approved by the voters of the city;

(ii) Be issued to refund lines of credit, bonds or other borrowings that were executed before the effective date of this section; or,

(iii) Be issued to finance written commitments of the Agency that were entered into before the effective date of this section.

~~B. Each urban renewal plan of the Agency that exists on the effective date of this section is hereby amended to add the following provision: "No bonded indebtedness shall be issued under this plan except in compliance with the requirements of the Charter of the City of Oregon City. Any amendment of the preceding sentence must be approved by a non-emergency ordinance of the city."~~

C. For purposes of this section "bonded indebtedness" has the meaning defined for that term in ORS 310.140(3), as that section of the statutes exists on the date this section of the charter is approved by the voters of the city. That statute defines "bonded indebtedness" to mean "any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future."

D. This section shall not limit the Agency's rights or obligations under any lines of credit, bonds or other borrowings that were executed prior to the effective date of this section.

~~E. After June 30, 2016, the City of Oregon City, the Urban Renewal Agency of the City of Oregon City, or any agency created in whole or in part by the city, whether acting alone or in concert with other persons, entities or agencies:~~

~~(a) Shall not finance, or authorize the financing of, any urban renewal plan or project, in whole or in part, with tax increment financing revenues.~~

~~(b) Shall not borrow or spend, or authorize the borrowing or spending of, money to buy land or property for the purpose of urban renewal, or the development of property not owned by the city.~~

~~(c) Shall use any and all existing tax increment revenues solely for the purpose of retiring existing Urban Renewal Agency debt.~~

(Res. No. 12-27, adopted by voters at the City election held November 6, 2012; Charter Ord. of 6-30-16; Res. No. 16-25, adopted by voters at the City election held November 8, 2016 which added part E. to Section 59. Clackamas County Court Case #16CV42887 declared that part E. of Section 59 is unenforceable as preempted by state law)

Tony Konkol

From: James Nicita <james.nicita@gmail.com>
Sent: Sunday, February 9, 2025 9:56 PM
To: Mike Mitchell; Rocky Smith, Jr.; Denyse McGriff; Adam Marl; Scott Wilson; Doug Neeley; Laurie Ariniello
Cc: Tony Konkol; Bill Kabeiseman; James Graham
Subject: February 11, 2025 Urban Renewal Work Session Comments - Section 59 of Oregon City Charter
Attachments: 2025-02-09 Response to City Attorney UR Right to Vote.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Urban Renewal Commissioners:

Please find a memo attached in regards to the above-referenced agenda item.

James Nicita
Oregon City

MEMORANDUM

DATE: February 9, 2025

TO: Oregon City Urban Renewal Commission

FROM: James Nicita, Oregon City resident and taxpayer

RE: Response to city attorney claims regarding potential legal vulnerability of Section 59 of the city charter of Oregon City

---

This memo responds to the attempts by the city manager and the city attorney to convince the urban renewal commission (URC) and city commission that the right to vote provision in Section 59 of the city charter of Oregon City is legally invalid. I respectfully suggest that they are not giving the urban renewal commissioners or the city commissioners the full, fair, and balanced story.

The reasons are lengthy, and far beyond the capacity to convey in one digestible memorandum, but I believe it is useful to highlight one of the significant ways that their opinion is contestable, in hopes that the URC and city commission will be inspired to make a good faith effort to fully explore the legal reasoning as to why the right to vote provision should be left alone.

Mr. Kabeiseman's thumbnail distillation of the Oregon Court of Appeals' holding in *URC v. Williams* has been that "the charter cannot control the urban renewal agency (URA)."

Taking Mr. Kabeiseman's own distillation as the point of departure, the charter right to vote provision nevertheless survives.

Attached is Section 59 of the charter, with strikethrough text deleting the provisions that are arguably invalid under the "charter cannot control the URA" reasoning. Specifically, all of Section 59(E), which was the subject of *URC v. Williams;* the first sentence of Section 59; and all of Section 59(B).

Critically and decisively, however, the second sentence of Section 59 survives. I have highlighted this sentence in ***bold italics***:

The commission shall not approve any amendment to an urban renewal plan after the effective date of this section unless the plan requires that bonded indebtedness issued to carry out the plan be issued in compliance with the restrictions of this section.

The "commission" referred to in this sentence is the city commission, as it is throughout the charter.

This holding that "the charter cannot control the URA" does not apply here. This sentence of the charter is not attempting to control the URA. In this sentence, the charter is controlling the ***commission.***

It would be an absurdity to argue that the city charter cannot control the commission. The commission is nothing but a creation of the charter. The charter directly controls the commission at several points throughout the charter.

The UR statute itself emphasizes that the city commission (the "governing body of the municipality") is the ultimate authority over both the URA and the urban renewal plan; namely, in the creation of the URA, the adoption of the UR plan, the amendment of the UR plan, and the termination of the URA:

457.035 Urban renewal agencies; creation; ordinance to exercise powers; area of operation. (1) In each municipality, as defined in ORS 457.010, there hereby is created a public body corporate and politic to be known as the "urban renewal agency" of the municipality. However, the urban renewal agency shall not exercise its powers until or unless *the governing body of the municipality, by nonemergency ordinance*, declares that blighted areas exist in the municipality and that there is need for an urban renewal agency to function in the municipality and elects to have the powers of an urban renewal agency exercised in any of the three ways provided in ORS 457.045.

457.045 Election of method of exercise of urban renewal agency's powers. *The governing body of a municipality shall, in the ordinance* adopted under ORS 457.035, elect to have the powers of an urban renewal agency under this chapter exercised in one of the following ways…

457.075 Termination of urban renewal agency. If the governing body of a municipality which has an urban renewal agency under ORS 457.035 finds that there no longer exists a need for an urban renewal agency in the municipality, *the governing body shall provide, by ordinance, for a termination of the agency* and a transfer of the agency's facilities, files and personnel to the municipality.

457.095 Approval of plan by ordinance; required contents of ordinance; notice. (1) *The governing body of a municipality,* upon receipt of a proposed urban renewal plan and report from the municipality's urban renewal agency and after public notice and hearing and consideration of public testimony and planning commission and taxing district recommendations, if any, *may*

approve the urban renewal plan. The approval shall be *by nonemergency ordinance* that incorporates the plan by reference.

457.220 Plan amendment; limit on additional land and increased maximum indebtedness. (1) Except for the provisions of subsections (2) and (4) of this section, an urban renewal agency shall carry out the urban renewal plan approved under ORS 457.095. (2) Any substantial change made in the urban renewal plan shall, before being carried out, *be approved and recorded in the same manner as the original plan*…[JN Note: That is, by a nonemergency ordinance of the government body of the municipality.]

The power of the city commission to amend the urban renewal plan in ORS 457.095 / 457.220 is reflected in the second sentence of charter Section 59, as quoted in ***bold italics*** above.

The result is the following: Because the charter can control the city commission, nothing prevents the charter from requiring the city commission to include the right to vote requirement in any amended urban renewal plan, pursuant to the second sentence of Section 59, and Section 59(A)(i).

And as a matter of fact, this is exactly what happened with the current version of the urban renewal plan.

On December 21, 2022, the URC gave final approval to the eleventh amended Oregon City urban renewal plan, which is the current plan. As demonstrated beginning at roughly min. 35:00 of this video, during the meeting Mr. Konkol and Mr. Kabeiseman attempted to get the URC to remove the right to vote provision from the draft amended plan, relying on the exact same arguments that they are making now:

https://www.youtube.com/watch?v=edG_8C3_g-A

The URC rejected the attempt. The URC instead approved the amended plan with the right to vote requirement still in the text of the final plan.

Then on January 18, 2023, the city commission gave final approval to the amended urban renewal plan, including the vote requirement in the text of the plan, consistent with the second sentence of Section 59, and Section 59(A)(i) of the charter of Oregon City.

Both the URC and the city commission, consistent with the duly amended urban renewal plan, thereafter referred the vote on "bonded indebtedness" to the voters via a May 2023 ballot measure: Measure 3-597. This was the only time such a request has ever been referred to the voters.

Nothing regarding the foregoing is contrary or antithetical to the UR statute. The charter right to vote is public involvement, and the UR statute itself requires public involvement "in all stages of the development of an urban renewal plan." ORS 457.085(1). The *URC v. Williams* court was firm that Section 59(E) was in fact fully and completely contrary and antithetical to the UR statute – because its intent was in fact effectively to shut down the whole OC UR program – but by contrast the right to vote requirement is merely an enhanced public participation provision regarding one of many aspects of the UR program: the issuance of bonded indebtedness.

Frankly I think the URC would have an extremely difficult time convincing a court that the right to vote requirement defeats the purposes of the UR statute, when there has only been one attempt at a public vote since it was enacted by the voters in 2012. Indeed, if a competent ballot measure truly focusing on downtown (unlike the misleading lawn signs of 2023 Measure 3-597) would have been presented to the voters, I think it would have passed easily. Likewise, I think a ballot measure today focusing on the courthouse would pass easily. I myself would campaign for that, including paying for a ballot statement in favor.

Finally, the URC and city commission will have an additional problem explaining to a court why they are resorting to litigation now, when they had the opportunity simply not to include the right to vote provision in the UR plan in December of 2022 and January of 2023, under the exact same reasoning that Mr. Konkol and Mr. Kabeiseman are still advancing now. Instead, the URC and city commission did in fact thereafter put out Measure 3-597 for a public vote in 2023. Would the URC and the city commission have turned a "blind eye" to any illegality now claimed if the voters had approved Measure 3-597?

Additional arguments as to why the right to vote provision in the charter survives could go on for several more pages, and I am willing to continue to engage the URC in such a dialogue.

However, that is frankly not my job. It is the job and the duty of the city attorney to give the URC and city commission full, balanced, and complete information and reasoning they need to make an appropriate decision.

Section 59 Urban Renewal Agency.

~~The urban renewal agency of the city (the "Agency") shall not issue bonded indebtedness after the effective date of this section unless the bonded indebtedness complies with the restrictions of this section.~~ ***The commission shall not approve any amendment to an urban renewal plan after the effective date of this section unless the plan requires that bonded indebtedness issued to carry out the plan be issued in compliance with the restrictions of this section.***

A. Bonded indebtedness issued by the Agency after the effective date of this section shall either:

(i) Be approved by the voters of the city;

(ii) Be issued to refund lines of credit, bonds or other borrowings that were executed before the effective date of this section; or,

(iii) Be issued to finance written commitments of the Agency that were entered into before the effective date of this section.

~~B. Each urban renewal plan of the Agency that exists on the effective date of this section is hereby amended to add the following provision: "No bonded indebtedness shall be issued under this plan except in compliance with the requirements of the Charter of the City of Oregon City. Any amendment of the preceding sentence must be approved by a non-emergency ordinance of the city."~~

C. For purposes of this section "bonded indebtedness" has the meaning defined for that term in ORS 310.140(3), as that section of the statutes exists on the date this section of the charter is approved by the voters of the city. That statute defines "bonded indebtedness" to mean "any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future."

D. This section shall not limit the Agency's rights or obligations under any lines of credit, bonds or other borrowings that were executed prior to the effective date of this section.

~~E. After June 30, 2016, the City of Oregon City, the Urban Renewal Agency of the City of Oregon City, or any agency created in whole or in part by the city, whether acting alone or in concert with other persons, entities or agencies:~~

~~(a) Shall not finance, or authorize the financing of, any urban renewal plan or project, in whole or in part, with tax increment financing revenues.~~

~~(b) Shall not borrow or spend, or authorize the borrowing or spending of, money to buy land or property for the purpose of urban renewal, or the development of property not owned by the city.~~

~~(c) Shall use any and all existing tax increment revenues solely for the purpose of retiring existing Urban Renewal Agency debt.~~

(Res. No. 12-27, adopted by voters at the City election held November 6, 2012; Charter Ord. of 6-30-16; Res. No. 16-25, adopted by voters at the City election held November 8, 2016 which added part E. to Section 59. Clackamas County Court Case #16CV42887 declared that part E. of Section 59 is unenforceable as preempted by state law)

CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To:	Urban Renewal Commission	**Agenda Date:**	February 11, 2025
From:	Tony Konkol, City Manager		

SUBJECT:
Item 2.a. - Urban Renewal Commission Disucssion of Section 59 of the Oregon City Charter

STAFF RECOMMENDATION:
Urban Renewal Commission discussion - no action will be taken.

EXECUTIVE SUMMARY:
N/A

BACKGROUND:
In 2012, the voters of Oregon City approved a ballot measure that added Section 59 to the City Charter and, in 2016, in another ballot measure, the voters added subsection (E) to Section 59. All of Section 59, including subsection (E), address the power and authority of the City's Urban Renewal Agency (the "OCURA"), which is a separate entity from the City of Oregon City. Subsequently, the Clackamas Circuit Court and Oregon Court of Appeals held that Section 59(E) was preempted by State law (ORS Chapter 457) and was of no effect. The decision stated:

"We readily conclude that, with respect to URC, section 59E is expressly preempted by ORS chapter 457. Section 59E purports to direct the actions of URC with respect to tax increment financing, property acquisition, and use of existing revenue in a manner that is incompatible with ORS chapter 457. Under ORS chapter 457, URC is a separate entity from the city, is required to carry out the approved urban renewal plan, and expressly is conferred the powers '[t]o acquire real property, by condemnation if necessary, when needed to carry out the plan,' ORS 451.170(3), to acquire funds to carry out urban renewal projects, ORS 457.190, and, as long as the provisions in ORS chapter 457 are met, to use tax increment financing in the plan to fund urban renewal projects, ORS 457.190, ORS 457.220 to 457.470. Section 59E directly conflicts with ORS chapter 457 by purporting to restrict the powers of URC conferred by statute to meet its statutory obligation to carry out the approved urban renewal plan."

Recently, the Urban Renewal Commission updated the Urban Renewal Plan and in May 2024 placed on the ballot the question of authorizing the agency to assume debt. The measure failed. The following provides the Urban Renewal Commission with options to discuss concerning the future of the district.

OPTIONS:

The following options have been identified as discussion topics for the Urban Renewal Commission:

1. Place a new measure on the ballot requesting approval to take on a certain amount of debt to complete one of more projects.
2. Place a measure on the ballot to rescind the entirety of Section 59 of the Oregon City Charter.
3. Close the district. The district currently generates approximately $3.2M per year. Closing the district would reallocate the revenue generated to all the taxing districts and would result in approximately $900,000 in new revenue to the City of Oregon City general fund.
4. Close the district and create a new district. This process would reset the existing frozen base and increment being collected. This method would not address the existing requirements of Section 59 of the Oregon City Charter.
5. The Urban Renewal Agency could sue the City of Oregon City seeking a declaratory judgment that the remainder of Section 59 of the Oregon City Charter is preempted and unenforceable. (Please see attached memorandum for additional details.)
6. The Urban Renewal Agency could take an action and then file a validation suit which would commence a proceeding in court and ask the court to examine and judge the regularity and legality of the action. (Please see the attached memorandum for additional details).
7. The Urban Renewal Agency could act contrary to the terms of Section 59 of the Oregon City Charter. This would not address Section 59, would not provide clarity on the issue and is not recommended. (Please see the attached memorandum for additional details).
8. Other options identified based on the discussion.

Staff will be available to answer any questions during the discussion.

BUDGET IMPACT:

N/A

Bateman Seidel

MEMORANDUM

TO: Oregon City Urban Renewal Commission

FROM: William Kabeiseman, City Attorney

DATE: February 6, 2025

RE: Methods to Seek Clarity on Ongoing Validity of Section 59 of the Oregon City Charter

I. INTRODUCTION

In 2012, the voters of Oregon City approved a ballot measure that added Section 59 to the City Charter and, in 2016, in another ballot measure, the voters added subsection (E) to Section 59. All of Section 59, including subsection (E), address the power and authority of the City's Urban Renewal Agency (the "OCURA").

Subsequently, the Clackamas Circuit Court and Oregon Court of Appeals held that Section 59(E) was preempted by ORS Chapter 457 and was of no effect. *Urban Renewal Comm. Of Oregon City v. Williams*, 322 Or App 615 (2022). However, the courts did not address the remainder of Section 59 and whether, under the arguments of the *Williams* case, Section 59 had any further validity. This memorandum is intended to identify options for addressing that question.

II. DISCUSSION

Section 59 of the Oregon City Charter provides as follows:

> Section 59 – Urban Renewal Agency.
>
> The urban renewal agency of the city (the "Agency") shall not issue bonded indebtedness after the effective date of this section unless the bonded indebtedness complies with the restrictions of this section. The commission shall not approve any amendment to an urban renewal plan after the effective date of this section unless the plan requires that bonded indebtedness issued to carry out the plan be issued in compliance with the restrictions of this section.
>
> A. Bonded indebtedness issued by the Agency after the effective date of this section shall either:
>
> (i) Be approved by the voters of the city;
>
> (ii)Be issued to refund lines of credit, bonds or other borrowings that were executed before the effective date of this section; or,

Bateman Seidel Miner Blomgren Chellis & Gram, P.C.

1000 SW Broadway, Suite 1910 Portland, Oregon 97205|Telephone 503 972-9920 Fax 503 972-9921|

(iii) Be issued to finance written commitments of the Agency that were entered into before the effective date of this section.

B. Each urban renewal plan of the Agency that exists on the effective date of this section is hereby amended to add the following provision: "No bonded indebtedness shall be issued under this plan except in compliance with the requirements of the Charter of the City of Oregon City. Any amendment of the preceding sentence must be approved by a non-emergency ordinance of the city."

C. For purposes of this section "bonded indebtedness" has the meaning defined for that term in ORS 310.140(3), as that section of the statutes exists on the date this section of the charter is approved by the voters of the city. That statute defines "bonded indebtedness" to mean "any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future."

D. This section shall not limit the Agency's rights or obligations under any lines of credit, bonds brother borrowings that were executed prior to the effective date of this section.

E. After June 30, 2016, the City of Oregon City, the Urban Renewal Agency of the City of Oregon City, or any agency created in whole or in part by the city, whether acting alone or in concert with other persons, entities or agencies:

(i) Shall not finance, or authorize the financing of, any urban renewal plan or project, in whole or in part, with tax increment financing revenues.

(ii) Shall not borrow or spend, or authorize the borrowing or spending of, money to buy land or property for the purpose of urban renewal, or the development of property not owned by the city.

(iii) Shall use any and all existing tax increment revenues solely for the purpose of retiring existing Urban Renewal Agency debt.

By its terms, Section 59 places significant restrictions on the actions of the OCURA, such as limiting the ability of the OCURA to issue bonds, as well as purports to amend the urban renewal plan adopted by the OCURA. Section 59(E) went further and prohibited the OCURA from financing any project with tax-increment revenues, prohibited the purchase or development of property not owned by the city, and required that all tax-increment revenue be used to retire existing debt.

Shortly after subsection (E) was added to Section 59, the OCURA filed a declaratory judgment action seeking to have the circuit court declare subsection (E) ineffective, but that lawsuit did not directly affect the ongoing validity of the remainder of Section 59. The lawsuit was successful and the Oregon Court of Appeals held that subsection 59(E) is preempted by state law and unenforceable:

> "We readily conclude that, with respect to URC, section 59E is expressly preempted by ORS chapter 457. Section 59E purports to direct the actions of URC with respect to tax increment financing, property acquisition, and use of existing revenue in a manner that is incompatible with ORS chapter 457. Under ORS chapter 457, URC is a separate entity from the city, is required to carry out the approved urban renewal plan, and expressly is conferred the powers '[t]o acquire real property, by condemnation if necessary, when needed to carry out the plan,' ORS 451.170(3), to acquire funds to carry out urban renewal projects, ORS 457.190, and, as long as the provisions in ORS chapter 457 are met, to use tax increment financing in the plan to fund urban renewal projects, ORS 457.190, ORS 457.220 to 457.470. Section 59E directly conflicts with ORS chapter 457 by purporting to restrict the powers of URC conferred by statute to meet its statutory obligation to carry out the approved urban renewal plan."

Given the Court of Appeals' reasoning in the *Williams* case, it is also likely that the remainder of Section 59 is also preempted and ineffective, as it places additional limits on the activities of the OCURA; however, the Court of Appeals did not rule on that question as it was not before the court.

Accordingly, the question remains as to the continued vitality of Section 59(A) – (D) and there are several methods that could be used to reach a final conclusion.

- First, the OCURA could simply act contrary to the terms of Section 59 by, e.g., entering into a contract with a promise to pay at some point more than a year in the future without seeking voter approval. This would have the benefit of being simple and straightforward; however, it could be subject to challenge later and, while this approach might work for smaller matters, the continued uncertainty may well prove a stumbling block in larger deals.

- The OCURA could sue the City seeking a declaratory judgment declaring that the remainder of Section 59 is preempted and unenforceable. That was the approach used in the *Williams* case that went to the Court of Appeals. This would result in a court decision that finally resolved this particular question between the parties, but could be bogged down in additional issues should some other party intervene in the matter.

- Finally, the OCURA could take an action and then file what is known as a "validation" suit under ORS 33.710. That statute allows public bodies to commence a proceeding in court and ask the court to "examine[] and judge[] the regularity and legality" of certain actions. The validation lawsuit would require notice to be published and would allow interested persons to intervene, but the statute requires the matter to be "tried forthwith and judgment rendered as expeditiously as possible," likely resulting in a quicker resolution than in a declaratory judgment suit.

The validation proceeding has been used by a number of different local governments, including the City of Milwaukie (seeking review of its ability to withdraw from the North Clackamas Parks and Recreation District), Columbia County (seeking a review of the validity of an initiative that approved a "Second Amendment Sanctuary Ordinance"), and Metro (seeking review of the validity of its actions in developing the Convention Center hotel in Portland).

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF CLACKAMAS

In the Matter of the Petition of Adam Khosroabadi; Lisa Batey; Desi Nicodemus; Kathy Hyzy; and Mark Gamba, as the City Council of the CITY OF MILWAUKIE; an Oregon Municipality, For the Judicial Examination and Judgment of the Court as to the Validity of a City to Withdraw From a Service District Pursuant to an Intergovernmental Agreement.	Case No. **VALIDATION PETITION** **(Pursuant to ORS 33.710 and 33.720)** **Fee Authority: ORS 21.259 (exempt from filing fee)**

I. PETITION

1.

Pursuant to ORS 33.710 and ORS 33.720, the Milwaukie City Council, as the governing body of the City of Milwaukie, hereby petitions for judicial examination and judgment of the Court as to the authority and validity of the City of Milwaukie ("City") to withdraw from the North Clackamas Parks and Recreation District ("District"), a county service district formed under ORS Chapter 451, pursuant to Section VI(4) of the Intergovernmental Agreement ("Agreement") entered by and between both parties.

II. OREGON VALIDATION STATUTES

2.

The Oregon Validation Statutes, ORS 33.710 to 33.720, provide for an in rem proceeding brought by a governing body, as defined in ORS 33.710(1)(a), for the purpose of having judicial examination and judgment of the court as to the regularity and legality of, among other matters:

a. The proceedings in connection with the establishment or creation of the municipal corporation, including any action or proceedings proclaiming the creation of the municipal corporation. ORS 33.710(2)(a);

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

b. The proceedings of the governing body and of the municipal corporation providing for and authorizing the issue and sale of bonds of the municipal corporation, whether the bonds have or have not been sold or disposed of. ORS 33.710(2)(b);

c. The authorization of any contract and as to the validity of the contract, whether or not it has been executed. ORS 33.710(2)(d);

d. Any decision of the governing body that raises novel or important legal issues that would be efficiently and effectively resolved by a proceeding before the decision becomes effective and would significantly affect the lives or businesses of a significant number of persons within the boundaries of the governing body. ORS 33.710(2)(e);

e. The authority of the governing body to enact a resolution. ORS 33.710(2)(f); and,

f. Any resolution enacted by the governing body. ORS 33.710(2)(g).

3.

ORS 33.720(3) directs the proceeding be tried forthwith and judgment rendered as expeditiously as possible.

III. JURISDICTION

4.

This Petition is filed pursuant to ORS 33.710 and 33.720 in the nature of a proceeding in rem. Jurisdiction and venue in this Court is appropriate for the following reasons:

a. The City is a municipal corporation in the State of Oregon and formed and operated pursuant to the City Charter of the City of Milwaukie.

b. The City is a "municipal corporation" as that term is defined by ORS 33.710(1)(b).

c. The City is located entirely within Clackamas County, in the State of Oregon.

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

d. Petitioners are the duly elected and acting members of the City Council of the City as of the time of the filing of this Petition.

e. The City Council is the "governing body" as that term is defined by ORS 33.710(1)(a).

f. Notification of this Petition will be published in Clackamas County as required by ORS 33.720(2) to establish jurisdiction and the City will personally serve the Clackamas County Board of Commissioners as the governing board of the District.

g. Jurisdiction shall be complete within 10 days after the date of completing publication of the notice as required under ORS 33.720(2).

IV. BACKGROUND

5.

The City was formally incorporated in 1903 and formed under the Constitution and laws of the state of Oregon in the corporate boundaries of Clackamas County.

6.

The District was established in 1990 by a vote of the Clackamas County residents under the authority of ORS Chapter 451. As a county service district, the District maintains and operates regional parks and recreation facilities in the North Clackamas area for the benefit of City residents.

7.

In 1990, the District and the City contractually agreed through an intergovernmental agreement ("IGA") that the District would be responsible for the maintenance of all new indoor and outdoor park facilities constructed by the District and the City would continue to maintain ownership of the parks currently under its jurisdiction. The City reserved the right to further contract with the District to maintain some or all of the facilities maintained and operated by the City. The 1990 IGA is attached hereto as Exhibit 1 and incorporated herein by reference. The

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

Clackamas County Commissioners wanted to form the District and have the City participate. That was accomplished by consent, rather than by annexation and the City was, as a result, a founding participant of the District. As a condition of providing its consent, the City ensured that it would be able to "choose at any time to withdraw entirely from the service district." *See* Ex. 1 at F(4)

8.

In 2008, the District and the City signed an intergovernmental agreement "Agreement" attached hereto as Exhibit 2 and incorporated herein by reference. The parties desired to revise the prior IGA to better clarify the roles and relationships of the parties regarding the provision of park and recreation services. Section VI of the Agreement provides for the process for removal of city parks and recreation facilities from district maintenance responsibility. Again, the Agreement preserves the City's right to "choose at any time to withdraw entirely from the District" and the parties specifically agreed that it would be completed consistent with the "ORS 222.524" process. *See* Ex. 2 at VI(4).

9.

The City is considering a departure from the District and wishes to do so utilizing its authority pursuant to Section VI(4) of the Agreement and withdraw entirely from the District. The District opposes the City's withdrawal procedures pursuant to the Agreement and ORS 222.524 and instead argues that the City must withdraw in accordance with ORS 198.870. The Agreement between the parties does not contemplate the City's withdrawal pursuant to ORS 198.870.

10.

ORS 222.524 provides that if the governing body of the city elects to withdraw from a district incorporated in or annexed to the city, it shall hold a public hearing on the question of such withdrawal. At the hearing, the governing body of the city shall hear objections to such withdrawal and shall determine whether withdrawal is for the best interest of the city.

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

11.

ORS 198.870 provides that owners of land included in a district or electors of an area within a district may petition the county board for withdrawal of the property from the district. Notice of the petition for withdrawal must be in writing and within five days after the petition is filed, petitioners shall furnish the secretary with a copy of the petition as filed. The county board may approve the petition as presented or it may adjust the boundaries and approve the petition. The petition shall be denied if it appears that it is, or would be, feasible for the territory described in the petition to receive service from the district.

V. AUTHORITY TO WITHDRAW UNDER SECTION VI(4) OF THE INTERGOVERNMENTAL AGREEMENT

12.

Petitioners seek a judgment of this Court declaring the authority of the City to withdraw pursuant to Section VI(4) of the intergovernmental agreement ("Agreement") entered by and between the City of Milwaukie ("City") and the North Clackamas Parks and Recreation District ("District"). This Agreement was entered into and agreed upon by the parties on October 21st, 2008. Section VI(4) of the Agreement states the City may choose at any time to withdraw entirely from the District pursuant to ORS 222.524 or its successor statute.

13.

The City and the District expressly agreed to the applicable statute in the event of a withdrawal. Section VI(4) of the Agreement ***specifically*** provides that the City may choose at any time to withdraw entirely from the District pursuant to ORS 222.524 or its successor statute. Ex. 2 at VI(4). The availability to withdraw pursuant to ORS Chapter 198 was not contemplated by the parties nor was it provided for in any of the IGAs throughout the years. *See generally* Ex. 1; Ex. 2.

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

14.

Under ORS 190.010, a unit of local government has the freedom to enter into written agreements with other units of local government for the performance of any or all functions and activities within its authority to perform. Cities are thus granted authority to freely enter into these IGAs.

15.

Generally, municipal entities have significant authority over local matters. *City of La Grande v. Pub. Employes Ret. Bd.*, 281 Or 137, 156, 576 P2d 1204, *aff'd on rehearing*, 284 Or 173, 586 P2d 765 (1978) ("When a statute is addressed to a concern of the state with the structure and procedures of local agencies, the statute impinges on the powers reserved by the amendments to the citizens of local communities."). Furthermore, ORS 221.410 provides that "a city may take all action necessary or convenient for the government of its local affairs." This remains true so long as the action is not limited by express provision or necessary implication of general law. *Id.*

16.

Absent any statutes specifically prohibiting the local conduct, municipal cities have authority to govern that conduct through contracting IGAs. Nothing in ORS Chapter 198 expressly prohibits the City's ability to withdraw pursuant to ORS 222.524. Accordingly, the City—particularly where expressly stipulated to by the District—should have the authority to withdraw in accordance with the terms provided for in the validly executed Agreement.

17.

Oregon law provides the City with the authority to shape its own business conduct regarding local matters. The City exercised its authority to conduct its business over local matters when it entered into several IGAs with the District. Nothing in ORS Chapter 198 prohibits the conduct at issue in this Petition. The City should have the authority to exercise the withdrawal option pursuant to Section VI(4) of the Agreement.

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

VI. AUTHORITY TO WITHDRAW UNDER ORS 222.524

18.

If this Court finds that the City's contractual provision does not provide the City authority to withdraw, then in the alternative, Petitioners seek a judgment declaring that the City's authority to withdraw from the District under ORS 222.524 is proper and in accordance with Oregon law.

19.

Because the District is a county service district organized under ORS Chapter 451, the City is therefore required by ORS 451.585(4) to withdraw from the District in the manner set forth in ORS 222.524. ORS 222.524 provides:

> If as authorized by ORS 222.520 the governing body of the city elects to cause the withdrawal from a district named in ORS 222.510 of that part of such district theretofore incorporated in or annexed to the city, it shall hold a public hearing on the question of such withdrawal. At the hearing, the governing body of the city shall hear objections to the withdrawal and shall determine whether such withdrawal is for the best interest of the city.

20.

The applicable statutory scheme, whether ORS Chapter 222 or ORS Chapter 198, for when a City wishes to withdraw from a special district was heavily litigated in *Clackamas County Assessor, et al. v. City of Happy Valley*, Clackamas County Circuit Court Case No. 18CV30439. In *Clackamas County Assessor*, the City of Happy Valley and the North Clackamas Parks and Recreation District ("NCPRD") had participated in a formal process to annex the City of Happy Valley into the NCPRD before the lawsuit was filed. *See* Pl.'s Mo. for Summary Judgment at 4:6-24. Both the City of Happy Valley and the NCPRD entered into an Annexation

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1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

and Service Agreement to that effect. *Id.* The City approved Resolution No. 05-28 proposing annexation in accordance with ORS Chapter 198 and it was later voted on by the public and passed as Ballot Measure No. 3-209. *Id.* Thereafter, the city complied with the requirements provided in ORS 198.866 and ORS 198.967 to formally annex into the district. *Id.*

21.

The *Clackamas County Assessor* case involved specific steps taken to annex City property to the special district. This is not the case here. In this context, there was no formal process to annex the City into the District. There was no formal agreement between the parties entitled "Annexation and Service Agreement". The contractual agreement between the parties created the division of roles and responsibilities and there contained no provisions relating to annexation pursuant to ORS Chapter 198. *See generally* Ex. 1; Ex. 2. As such, the City did not follow a procedural process under ORS Chapter 198 to annex City property to the District.

22.

At formation, the 1990 IGA provided that certain Milwaukie parks were to be maintained and operated by the District. Ex. 1 at 9. The later 2008 Agreement provides that the City may choose at any time to withdraw from the District or remove some or all of the Joint Parks from the District's maintenance responsibility. Ex. 2 at 6. This is not the case where "[t]he text of Chapter 198 by its terms applies to the method by which the City became part of the District." *See* Order on Pl.'s Mo. for Summary Judgment at Ex. 1 page 2.

23.

Furthermore, in *Clackamas County Assessor*, the City of Happy Valley was annexed into the District pursuant to ORS 198.867 and then decided by a vote of its city council, to withdraw from the District under ORS Chapter 222. *See* Pl. Mo. for Summary Judgment at 5:1. This is not a situation where a City is annexed into a District pursuant to ORS Chapter 198 and the City then subsequently wishes to withdraw pursuant to a different statutory scheme. These are clear

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

distinctions from the *Clackamas County Assessor* case and thus the holding in that case cannot be accurately applied here.

24.

The City and the District had a validly executed Agreement which provided expressly for the withdrawal process pursuant to ORS 222.524. Municipal entities can shape their own business conduct through IGAs and thus the ability to withdraw from the District ought to be subject to Section VI of the Agreement. Furthermore, the City did not annex into the District pursuant to ORS Chapter 198 nor were there express provisions in the intergovernmental agreements providing for the annexation of City property to the District, such facts are clearly distinguishable from *Clackamas County Assessor*.

VII. JUSTICIABLE CONTROVERSY

25.

A justiciable controversy is established by the in rem procedures spelled out in the Oregon validation statutes, ORS 33.720(2). Jurisdiction of the municipal corporation is obtained by publishing notice to the municipal corporation, the City of Milwaukie. Jurisdiction of the electors of the municipal corporation is obtained by publishing notice directed to all electors, freeholders, taxpayers, and other interested persons in a newspaper of general circulation in Clackamas County. "Any person interested" may contest the validity of this proceeding by timely appearing within ten (10) days after the date of completion of publication. ORS 33.720(3). The District is affected by these proceedings and as such this Petition will be served on its governing body, the Board of County Commissioners of Clackamas County.

26.

Invoking in rem jurisdiction in accordance with the procedures of ORS 33.710 to 33.720 establishes a justiciable controversy because (1) the City has determined that it may seek to withdraw from the District pursuant to Section VI of the Agreement and the District opposes withdrawal arguing that ORS 222.524 is inapplicable; (2) the City's withdrawal process from the

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

District would significantly affect the lives or businesses of a significant number of persons within the City's jurisdiction; and, (3) pursuant to filing this validation proceeding, service by publication will be provided to the municipal corporation and to all electors, freeholders, taxpayers, and other interested persons, including those who may be opposed to the validity of Section VI of the Agreement, and who may appear as parties and timely file opposition to the validation proceeding.

WHEREFORE, Petitioners pray:

1. That the Court judicially examine and validate the regularity and legality of:
   a. the City's authority to withdraw from the District pursuant to Section VI(4) of the 2008 intergovernmental agreement entered into and executed between the City and the District.
   b. the City's authority under ORS 222.524 to withdraw from the District.
2. That these proceedings be tried forthwith, and judgment rendered as expeditiously as possible.
3. And such further relief as the Court finds to be just and proper.

DATED: July 7, 2022.

CABLE HUSTON, LLP

s/ Casey M. Nokes

Casey M. Nokes, OSB No. 076641
cnokes@cablehuston.com
Katherine A. London, OSB No. 194081
klondon@cablehuston.com
1455 SW Broadway, Suite 1500
Portland, OR 97201-3412

Attorneys for Petitioners

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092; FACSIMILE (503) 224-3176

90 - 504

COOPERATIVE AGREEMENT BETWEEN

THE CITY OF MILWAUKIE AND CLACKAMAS COUNTY

MAY 1, 1990

The following agreement is conditioned on the approval of the proposed North Clackamas Regional Parks and Recreation District tax base on November 6, 1990.

Regarding the formation of a parks and recreation service district for the North Clackamas area (henceforth referred to as the Service District), the City of Milwaukie and Clackamas County agree to the following:

A. PARKS CAPITAL IMPROVEMENTS

SERVICE DISTRICT

1) The Service District will acquire land and develop regional parks and recreation facilities for the North Clackamas area. These regional facilities (and their anticipated year of completion) include:

   - A State-of-the-Art Aquatics Complex (fy 93-94)
   - 4 Lighted Softball Fields (fy 93-94)
   - 2 Lighted Soccer Fields (fy 93-94)
   - 2 Multipurpose Fields (fy 93-94)
   - 2 Riverfront Parks (In Oak Grove and Gladstone)(fy 91-92)
   - Approximately 75 Acres of Natural Areas (fy 91-92)
   - Walking Trails Linking North Clackamas Park, the Southern Pacific Property, and Mount Talbert

2) Between 1991 and 1996, the Service District will expend a total of between $500,000 and $800,000 (in 1990 dollars) in funding and resources for land acquisition and the development of neighborhood parks facilities within the City of Milwaukie.

3) Between 1991 and 1996, the Service District will expend within each of four other subareas of the district funding and resources equivalent to a total of $500,000 to $800,0000 (in 1990 dollars) for land acquisition and the development of neighborhood parks facilities.

4) The Service District may undertake improvements to parks currently under the jurisdiction of the City of Milwaukie. These improvements are subject to the approval of the Milwaukie City Council, with the advice of the Milwaukie Parks Commission.

CITY OF MILWAUKIE

1) The City of Milwaukie, with the advice of the Milwaukie Parks Commission, will decide how the total $500,000 to $800,000 in neighborhood facilities funding, provided by the Service District between 1991 and 1996, will be allocated. This funding may be used to do one or more of the following:

   - Acquire land for neighborhood or mini-parks
   - Build neighborhood parks (5-6 acres each)
   - Build mini-parks or vest parks (1-2 acres each)
   - Improve or rehabilitate existing parks facilities
   - Expand existing parks facilities
   - Improve school district ballfields or play facilities within the area
   - Build walking and biking trails within the area
   - Other similar capital improvements for parks purposes
   - Improvements to and/or expansion of senior centers

2) The City of Milwaukie will retain the deeds to all parks facilities currently under the City's jurisdiction. These parks and facilities are listed in Attachment #1.

   The Milwaukie City Council, under the advisement of the Milwaukie Parks Commission, must approve all capital improvements to these facilities undertaken by the Service District before such improvements can be made.

   All proposed name changes to these parks are also subject to the approval of the Milwaukie City Council, under the advisement of the Milwaukie Parks Commission.

   All parks and facilities owned by the City of Milwaukie, but maintained and operated by the Service District will have signage explaining this dual relationship. Signs within these parks would make statements along the lines of: "This park built by the City of Milwaukie and maintained by the North Clackamas Regional Parks and Recreation District".

3) The City of Milwaukie may construct new parks or make improvements to parks currently under its jurisdiction over and beyond the $500,000 to $800,0000 allocation described above. These improvements will be at the City's own expense and will not be covered by Service District funds.

   Within budget constraints, the Service District may maintain such parks if the City of Milwaukie so desires.

B. MAINTENANCE OF PARKS FACILITIES

SERVICE DISTRICT

1) The Service District will be responsible for the maintenance of all new indoor and outdoor park facilities constructed by the district (see #1 and #2 under capital improvements).

2) Between fiscal years 1991-92 and 1994-95, the Service District will provide the City of Milwaukie with sufficient funding to maintain and operate those parks facilities currently under the City's jurisdiction.

   This "pass-through" of funding will be equivalent at a minimum to the current, 1990 City of Milwaukie budget allocation for parks and recreation ($174,795) plus a 6% annual increase for inflation.

3) In fiscal year 1995-96, the Service District will assume responsibility for the maintenance of City of Milwaukie parks facilities. These facilities are listed in Attachment #1.

4) Upon assuming maintenance of City of Milwaukie parks facilities in fiscal year 1995-96, the Service District will guarantee employment for City of Milwaukie parks staff at equal or greater pay and according to the guidelines established in ORS Chapter 236.

CITY OF MILWAUKIE

1) The City of Milwaukie will continue to maintain those parks currently under its jurisdiction through June 30, 1995. The funding "passed through" to the City of Milwaukie by the Service District during fiscal years 1991-92 through 1994-5 shall be used exclusively for the maintenance and operations of parks facilities.

2) As of July 1, 1995 the City of Milwaukie will transfer maintenance responsibility of its parks to the Service District. This transfer will include a complete transfer of parks and recreation staff according to ORS Chapter 236. If the City desires to sell any parks and recreation associated equipment, including mowers, tractors, and vehicles, to the District and the District is interested in purchasing these items, this equipment will be sold at fair market value.

C. RECREATIONAL PROGRAMMING

SERVICE DISTRICT

1) The Service District will provide extensive aquatics programming, coordination and scheduling of fields services, and summer youth recreation programs for the entire North Clackamas area. Some recreational classes to supplement existing recreation programs may also be provided by the Service district.

2) As of July 1, 1995, the Service District will provide City of Milwaukie residents with a Summer Youth Recreation Program equal or better than the program currently operated by the City's Parks Department.

3) As of July 1, 1995, the Service District will assume responsibility for the scheduling and management of all sports fields (such as soccer, softball, and baseball) located on parks currently under the jurisdiction of the City of Milwaukie.

CITY OF MILWAUKIE

1) The City of Milwaukie will continue to provide recreational programs as it sees fit through June 30, 1995. These programs may be funded with parks maintenance and operations funds provided by the Service District.

2) The City of Milwaukie may provide recreation programs in addition to those provided by the Service District. These programs will be at the City's own expense and will not be covered by Service District funds.

D. MILWAUKIE CENTER

SERVICE DISTRICT

1) Between fiscal years 1991-92 and 1994-95 (i.e., through June 30, 1995), the Service District will provide the City of Milwaukie with funding to maintain and operate the Milwaukie Center.

   This "pass-through" of funding will be equivalent at a minimum to the current, 1990 City of Milwaukie budget allocation for the Milwaukie Center ($165,955) plus a 6% annual increase for inflation.

   The Service District will also provide the City of Milwaukie with an additional "pass-through" of funding of $98,000 to maintain and operate the Milwaukie Center upon completion of

the Center's expansion by the City of Milwaukie. Subsoquently, this sum will also increase annually by at least 6%.

2) In fiscal year 1995-96, the Service District will assume responsibility for the maintenance and operation of the Milwaukie Center.

3) Upon assuming maintenance and operation of the Milwaukie Center in fiscal year 1995-96, the Service District will guarantee employment at equal or greater pay for the Milwaukie Center staff in accordance with ORS Chapter 236.

4) Under the jurisdiction of the Service District, the Milwaukie Center will continue to administer and provide a combination of educational, recreational, and social services to the community.

   These programs will continue to be primarily geared towards the needs and interests of older residents in the North Clackamas area.

5) The Service District and the City of Milwaukie may use the Milwaukie Center facilities for such activities as public meetings consistent with building policies.

CITY OF MILWAUKIE

1) The City of Milwaukie will continue to maintain and operate the Milwaukie Center through June 30, 1995.

2) As of July 1, 1995 the City of Milwaukie will transfer maintenance and operations responsibility of the Milwaukie Center to the Service District.

3) At the time of transfer (July 1, 1995) all Milwaukie Center policies developed by the Milwaukie Center Community Advisory Board will be adopted by the Service District. This Board will also continue its present role as primary policy advisor with regards to the activities and operations of the Milwaukie Center.

4) As of July 1, 1995, half (9) of The Milwaukie Center Community Advisory Board's members will be appointed by the Service District Board and half (9) will be appointed by the Milwaukie City Council.

   Milwaukie Center Community Advisory Board decisions regarding capital improvements, programs policies, and maintenance and operations policies will have to be approved by both the Milwaukie City Council (deed holders to the property and facilities) and the Service District Boards.

Milwaukie Center Community Advisory Board will also provide the Service District Board with budget recommendations.

5) The City of Milwaukie will make major capital improvements to the Milwaukie Center and its parks, as designated in its Capital Improvement Plans, by December 31, 1994 using its Neighborhood Parks Allocation funds and/or a portion of the City General Fund.

6) The City of Milwaukie will continue retain the deed to the Milwaukie Center and all subsequent capital improvements or name changes by the Service District must be approved by the City Council, under advisement of the Milwaukie Center Community Advisory Board.

E. ADMINISTRATIVE ISSUES

1) The Board of County Commissioners will serve as the governing body (referred to as the "Service District Board" in this document) of this County service district, which will be officially called the North Clackamas Regional Parks and Recreation District.

2) An Urban Parks Advisory Board (UPAB), composed of 6 members (1 from each of 5 subareas of the district and 1 from each senior center) will advise the Board of County Commissioners on all capital improvements, maintenance and operations, and recreational programming activities to be undertaken by the Service District. The Milwaukie City Council will appoint the individual representing the Milwaukie parks subarea. The Milwaukie City Council will also appoint the Milwaukie Center Board member during the 4 year transitional period between 1991-2 and 1994-5. As of July 1, 1995, the Milwaukie Center Board will designate one of its members to serve on the UPAB.

3) Each of the seven subareas of the District will also have its own Neighborhood Parks Advisory Board to make recommendations on the allocation of the $500,000 to $800,000 in neighborhood facilities funds.

   The approval of both the Neighborhood Parks Advisory Board and the Service District Board will be necessary before neighborhood facilities funds are allocated. All Neighborhood Parks Advisory Boards will hold public meetings within their subareas in order to receive input from the public concerning the allocation of neighborhood park funds.

   The Milwaukie City Council, with the advice of the Milwaukie Parks Commission, will serve as Milwaukie's Neighborhood Parks Advisory Board.

F. WITHDRAWAL OF THE CITY OF MILWAUKIE FROM THE SERVICE DISTRICT

1) The City of Milwaukie may choose at any time to withdraw those parks currently under its jurisdiction (as of November 1, 1990) and the Milwaukie Center from the Service District. (Parks are listed in Attachment #1.)

   In this case, where the City withdraws its parks and senior facilities, no reduction in the tax rate will be provided to City of Milwaukie residents. City of Milwaukie residents will continue to receive all of the benefits of in-district residents (lower user fees, priority use of facilities, etc.).

2) If the City of Milwaukie chooses to withdraw those parks currently under its jurisdiction and the Milwaukie Center after improvements have been made to these facilities using Service District funds, a pass-through of funds (i.e. rebate) will be provided by the Service District to the City for maintenance and operations.

   For parks, this pass-through would be equivalent to one-fifth of the Service District's neighborhood facilities maintenance and operations budget minus the amount expended by the Service District in the City of Milwaukie subareas on District-owned facilities.

   For the Milwaukie Center, this pass-through would be equivalent to the portion of the District's senior center funding allocated to maintenance and operations of the senior facilities built after 1990-91 plus 6% annually.

4) The City of Milwaukie may choose at any time to withdraw entirely from the service district subject to legal restrictions established in the Oregon Revised Statutes and Boundary Commission regulations, provided that the City's share of any outstanding bonded indebtedness has been retired or is paid off.

IN WITNESS WHEREOF, the respective parties have cause to be signed in their behalf to make and enter into this agreement this 29 day of May, 1990.

CITY OF MILWAUKIE

By Roger A. Hall

ATTEST:

By Jeri Zwiebel

CLACKAMAS COUNTY
BOARD OF COMMISSIONERS

Darlene Hooley, Chair

Ed Lindquist, Commissioner

Dale Harlan, Commissioner

ATTACHMENT #1

MILWAUKIE PARKS TO BE MAINTAINED AND OPERATED BY THE SERVICE DISTRICT

SITE	ACRES
Lewelling Tennis Courts	0.31
Rowe Tennis Courts	0.31
Dogwood Lodge Park	0.96
Jefferson Street Park	2.10
Spring Park	6.32
Stanley Park	1.97
Century Park	0.50
Water Tower Park	0.92
Furnberg Park	4.00
North Clackamas Park	45.00
Dogwood Park	0.75
Well #8	0.25
Wichita Water	0.95
Fire Admin/Historical Society	1.22
Monroe/Washington Triangles	0.02
Lions Club	0.25
Scott Park/Library	3.08
Pioneer Cemetery	1.77
Spring Creek Park	0.80

MILWAUKIE OPEN SPACES TO BE MAINTAINED AND OPERATED BY THE CITY OF MILWAUKIE

Old Shop	1.00
Police Dept. Grounds	1.00
City Hall Grounds and Parking Lot	0.96

If the City of Milwaukie so chooses, it may contract with the Service District to maintain the three facilities listed above. The Service District would charge the City a fee that would allow the District to cover (but not exceed) its maintenance costs.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

JUN 1 1)

JOHN F. KAUFFMAN, County Clerk

In the Matter of Entering Into an Agreement With the City of Milwaukie Regarding Parks

ORDER NO. ~~90-504~~ By 19I Deputy

This matter coming before the Board at this time, and it appearing that this Board has this day initiated the formation of the "North Clackamas Regional Parks and Recreational District"; and

It further appearing that the City of Milwaukie has indicated that it is willing to have the property within city boundaries included in such a district; and

It further appearing that it is in the public interest to have the city area included within the district on terms that have been agreed to between the County and the City;

NOW THEREFORE, IT IS HEREBY ORDERED that Clackamas County enter into the attached "Cooperative Agreement between the City of Milwaukie and Clackamas County May 1, 1990", with the understanding that the city may have to reaffirm this agreement with the Board of the Park District after that district is formally established.

DATED this 24th day of May, 1990.

~~BOARD~~ OF COUNTY COMMISSIONERS

Darlene Hooley, Chair

Ed Lindquist, Commissioner

Dale Harlan, Commissioner

M. J.

165 482

Amendment #1

2008 Cooperative Intergovernmental Agreement Between City of Milwaukie and North Clackamas Parks and Recreation District

1) The District shall maintain the areas of the Parks listed below as described in this amendment:

Riverfront Park - from McLoughlin Blvd to the River and between southern edge of Log dump property and Johnson Creek) NOTE: Parking strip on west side of McLoughlin and lawn area adjacent must be maintained at a high level. All other areas can be moderate to low – unless there is a specific need or event preparation. As the Park or portions of the Park are improved, a high maintenance level will be applied to the improved portion(s). (The median strip in the center of McLoughlin Blvd will be maintained by the City of Milwaukie.)

Scott Park – from north edge of sidewalk along north end of library building. Includes natural area within split rail fence but excludes pond. City covers lawn area south of Library and front landscape

40th and Harvey – NCP areas only (NCP will maintain the grounds inside its fenced shop area including beds next to building. NCP will maintain the grounds inside the entire fenced area where the NCP vehicles are parked. NCP will maintain the unfenced grounds from the access road on the south of the building to the south property line and up to the west edge of the sidewalk on the east in front of the NCP shop.

Robert Kronberg Park (including City-owned parcels to north and south)

2) "Minthorne North" shall be added to Attachment #1, under the header:

A. Milwaukie Parks to Be Maintained and Operated by the Service District

3) Minthorne North" shall also be added to the list of sites in Attachment #2, listed under the header: "Natural Resource Areas"

City of Milwaukie

By:
Date:

North Clackamas Parks
And Recreation District

By: Lynn Peterson, Chair
Date: 1-21-2010 VI. 1.

COOPERATIVE INTERGOVERNMENTAL AGREEMENT

This Cooperative Intergovernmental Agreement (this "Agreement"), made this 21st day of october 2008, is entered by and between North Clackamas Parks and Recreation District, a county service district formed under ORS Chapter 451 hereinafter referred to as "District," and the City of Milwaukie, hereinafter referred to as "City," pursuant to the provisions of the Intergovernmental Cooperation Act, ORS 190.003-190.250.

WHEREAS, City is part of the District; and

WHEREAS, the District provides park services for the benefit of City residents; and

WHEREAS, the parties desire to revise that certain intergovernmental agreement dated August 20, 1992 to better clarify the roles and relationship of the parties regarding the provision of park and recreation services; and

WHEREAS, when the District was established in 1990 by a vote of the Clackamas County residents, the District agreed to acquire land and develop regional parks and recreation facilities for the North Clackamas area including:

- A State-of-the Art Aquatics Complex;
- 4 Lighted Softball Fields;
- 2 Lighted Soccer Fields;
- 2 Multi-purpose fields;
- 1 Riverfront Park in Oak Grove;
- Approximately 75 Acres of Natural Areas;
- Walking Trails Linking North Clackamas Park, the Southern Pacific Property (now called North Clackamas District Park), and Mount Talbert; and

WHEREAS, the City maintained and operated the Milwaukie Center through August 31, 1992; and

WHEREAS, during the fiscal year 1991-92, the District provided the City of Milwaukie with the funding to maintain and operate the Milwaukie Center; and

WHEREAS, this "pass-through" of funding was equivalent at a minimum to the 1990 City of Milwaukie budget allocation for the Milwaukie Center ($165,955) plus a 6% annual increase for inflation. Upon transition the Milwaukie Center's budget increased each year by at least 6% per year until June 30, 1995; and

WHEREAS, the District also provided the Milwaukie Center's budget with an additional funding of $98,000 to maintain and operate the Milwaukie Center upon completion of the Center's expansion by the City of Milwaukie. Subsequently, this sum was increased annually by at least 6% per year until June 30, 1995; and

WHEREAS, as of September 1, 1992, the City transferred maintenance and operations responsibility of the Milwaukie Center to the District and the District assumed responsibility for the maintenance and operation of the Milwaukie Center; and

WHEREAS, upon assuming maintenance and operation of the Milwaukie Center, the District accepted and assigned employees for the Milwaukie Center staff in accordance with ORS 236 under which employees were to perform to District standards and abide by District personnel regulations; and

WHEREAS, at the time of transfer (September 1, 1992) all Milwaukie Center policies developed by the Milwaukie Center Community Advisory Board ("C/CAB") were adopted by the District. This Board continues its role as primary policy advisor with regards to the activities and operations of the Milwaukie Center; and

WHEREAS, The Board of County Commissioners is the governing body (referred herein as the "BCC") of the District.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein, the City and District hereby agree:

I. PARKS CAPITAL IMPROVEMENTS

A. DISTRICT

1) While the City continues to support the development of the parks and recreation facilities listed here it acknowledges that parks and recreation facility development priorities continue to grow and change. To this end, the District shall coordinate closely with City staff and its citizens when developing its annual budget, its capital improvement plan, when amending and reviewing its master plan and modifying its System Development Charges ("SDC"). Notices of all District Advisory Board (or subcommittees thereof) or BCC meetings pertaining to the District's budget, Capital Improvement Plan, Master Plan or SDC changes will be sent to the City Manager or his or her designee.

2) The District may undertake improvements to parks owned by the City. These improvements are subject to the approval of the Milwaukie City Council, or its designee.

B. CITY

1) The City will retain the deeds to all parks and facilities owned by the City and operated and maintained by the District as listed in Attachment #1 ("Joint Parks").

   All proposed name changes to parks and facilities within the City of Milwaukie will be reviewed according to the City's naming policy.

All parks and facilities owned by the City, but maintained and operated by the District, will have signage explaining this dual relationship. Signs within these parks shall state: "This park owned by the City of Milwaukie and maintained by the North Clackamas Parks and Recreation District."

2) The City may, at any time, construct new parks or make improvements to parks currently under its jurisdiction. These improvements will be at the City's own expense unless the District agrees to provide funding for these improvements. The District shall have no obligation to maintain or operate such parks unless otherwise agreed in writing. City staff will coordinate with District staff on any proposed park modifications to ensure ease of maintenance and operation.

3) For any parks other than Joint Parks, the City and the District will negotiate a level of service to be provided and any additional compensation owed by the City to the District. In those cases where the District denies the City's request to enhance, operate or maintain parks or facilities, the City will have the exclusive right to the option to enhance, maintain and operate these facilities at the City's own expense.

4) The City's requests for District enhancement, maintenance or operation of new City facilities will be made in writing and addressed to the Director of the District. The District Director shall review the request with the District Advisory Board ("DAB") and respond to the City with a decision within two months of the City's request.

II. MAINTENANCE OF PARKS FACILITIES

A. DISTRICT

1) The District will maintain and operate all Joint Parks.

2) The District will maintain all Joint Parks at a level equal to or better than the Milwaukie maintenance standards as set forth on Attachment #2.

3) Joint Parks may be shifted among maintenance standard levels at the mutual agreement of the City and the District.

B. CITY

1) City shall maintain all parks owned by the City unless otherwise agreed to herein.

III. RECREATIONAL PROGRAMMING

A. DISTRICT

1) The District will provide aquatics and recreational programming including programs for all ages and differing abilities, coordination and scheduling of fields services, and summer youth recreation programs for the entire North Clackamas area.

2) Except for North Clackamas Park (and the Milwaukie Center), use of all City parks and recreation facilities will be on a first come, first served basis. The District will be responsible for scheduling and management of all North Clackamas Park and Milwaukie Center facilities.

B. CITY

1) The City may provide recreation programs in addition to those provided by the District. These programs will be at the City's own expense and will not be covered by District funds. The City will coordinate its recreational programs with the District in order to avoid scheduling or service conflicts.

IV. MILWAUKIE CENTER

A. DISTRICT

1) Under the jurisdiction of the District, the Milwaukie Center continues to administer and provide a combination of educational, recreational, and social services to the community. These programs shall be primarily geared towards the needs and interests of older residents in the North Clackamas area.

B. JOINTLY, CITY AND THE DISTRICT

1) The District and the City may use the Milwaukie Center facilities for such activities as public meetings consistent with building policies. All other governmental users will pay a fee consistent with building use policies approved by the BCC.

2) From September 1, 1992 to October 2008, half (9) of the C/CAB members were appointed by the BCC and half (9) were appointed by the Milwaukie City Council.

3) Effective on the signing of this agreement, the C/CAB will reorganize and consist of a minimum of twelve (12) members who live or work within the District boundaries.

   Of the twelve C/CAB members, there will be representation of one member each appointed by the City and the City of Happy Valley. The C/CAB and DAB and agree to recommend to the BCC for approval the individuals nominated by the City and City of Happy Valley city councils to fill the City representative seats. The BCC agrees to appoint the individuals nominated by the city councils unless there is good cause for rejecting the nomination. All other C/CAB applications for any of the remaining at-large board positions may be made directly to the C/CAB.

The C/CAB members will be recommended by the C/CAB and DAB and appointed by the BCC. C/CAB members will be appointed to staggered three-year terms with terms ending in October of each year. Current members will continue to serve until their term ends.

4) During the annual budget process the C/CAB will provide budget recommendations for the operation and maintenance of the Milwaukie Center, and in addition, the C/CAB will identify and prioritize necessary capital projects and provide project recommendations to the DAB. The recommendations for maintenance and operations, and capital improvements shall be reviewed by the DAB, who will then forward their recommendations to the District Budget Committee. The Budget Committee will then submit recommendations to the BCC for final decision.

5) The City will continue to retain the deed to the Milwaukie Center and all name changes made by the District to parks and facilities within the City must be approved by the City Council, under advisement of the C/CAB.

V. ADMINISTRATIVE ISSUES

A. DISTRIC T ADVISORY BOARD

1) The DAB currently consists of an eleven-member board with representation allocated as follows:
   - 3 members from east of I-205 (one of which may reside in the City of Happy Valley), with one member term expiring in 2009;
   - 3 members from west of I-205 (one of which may reside in the City of Milwaukie), with one member term expiring in 2009;
   - 1 member from the City of Happy Valley;
   - 1 member from the City of Milwaukie;
   - 1 member from the Milwaukie Center; and
   - 2 members at large (one from east of I-205 and one from west of I-205).

2) District agrees to appoint the individual nominated by the City Councils to fill the City's representative seat unless there is good cause for rejecting the nomination.

3) DAB composition will be revisited and adjusted, in the event of significant District boundary changes or major population changes.

4) DAB members will be appointed to staggered four-year terms and may be removed at will by the BCC.

5) Effective July 1, 2009, representation on the DAB shall change to a nine member board. As of July 1, 2009, composition will include two members each from east and west of I-205, one member from the City of Happy Valley, one member from

the City of Milwaukie, one member from the Milwaukie Center and two members at large (one from east of I-205 and one from west of I-205).

6) Any subsequent substantive changes to the composition of the DAB will be reviewed by the City Council.

B. Th e District Director or their designee will provide the City Council with an annual report describing District operations and maintenance of facilities and programs within the City.

VI. REMOVAL OF CITY PARKS AND RECREATION FACILITIES FROM DISTRICT MAINTENANCE RESPONSIBILITY

1) The City may choose at any time to remove some or all of the Joint Parks or the Milwaukie Center from the District's maintenance responsibility.

   If the City removes one or more of the Joint Parks and/or senior facilities, no reduction in the District tax rate will be provided to City residents. City residents will continue to receive all of the benefits of in-District residents (e.g., lower user fees, priority use of facilities). Further, District residents will continue to receive all of the benefits (e.g., scheduling, priority use of facilities, equal or lower fees) of the removed facilities and will be treated equally with residents of the City.

2) If the City chooses to remove those parks currently under its jurisdiction and/or the Milwaukie Center, a pass-through regarding operations and maintenance support will be negotiated at that time.

3) Employees of the District primarily responsible for the operations or maintenance of these facilities will be transferred to the City per ORS 236. Contracts entered into by the District for operations and maintenance support for the subject facilities will be assigned, either in part or in whole depending on the scope of project, to the City for the remainder of the contract term. The Parties agree to enter into any additional agreements or documents necessary to effectuate such transfers and/or assignments.

4) The City may choose at any time to withdraw entirely from the District pursuant to ORS 222.524 or its successor statute.

VII. ADDITIONAL PROVISIONS

A. HOLD HARMLESS

Each party agrees to release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, employees, and agents from and against all damages, claims, injuries, costs or judgments which may in any manner arise as a result of such party's performance under this Agreement, subject to Oregon Tort claims limitations.

B. DISPUTES

1) Disputes/Attorney Fees. If a dispute arises between the parties regarding breach of this Agreement or interpretation of any term of this Agreement, the parties shall first attempt to resolve the dispute by negotiation followed by mediation if negotiation fails to resolve the dispute.

   a) Step One. The City Manager and the District Director, or other persons designated by the governing bodies, will negotiate on behalf of the entities they represent. The nature of the dispute shall be reduced to writing and shall be presented to each representative who shall then meet and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each party's representative and ratified by each governing body, which shall be binding upon the parties.

   b) Step Two. If the dispute cannot be resolved within ten (10) days at step one, the parties shall submit the matter to non-binding mediation. The parties shall attempt to agree on a mediator. If they cannot agree, the parties shall request a list of five potential mediators from an entity or firm providing mediation services that is mutually acceptable to the parties. The parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, the parties shall submit the matter to the Presiding Court of Clackamas County and the Presiding Judge shall appoint such a mediator from the list of mediators submitted by the mediation entity or firm. The mediator's fees shall be borne equally by the parties and the parties shall each bear their own costs, attorney fees and fees associated with the mediation. If the issue is resolved at this step, a written determination of such resolution shall be signed by each representative and approved by the respective governing body.

C. GOVERNING LAWS

This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon without giving effect to the conflict of law provisions thereof.

D. SEVERABILITY

Should any portion of this Agreement or amendment thereto be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of this Agreement shall remain in effect. Both parties agree to immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.

E. NOTICES

All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To the City: City Manager
10722 SE Main Street
Milwaukie, OR 97222

To the District District Director
150 Beavercreek Road
Oregon City, Oregon 97045

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

F. TERM

This Agreement shall remain in effect to the end of the fiscal year in which both parties have signed and will be automatically renewed for successive one (1) year periods effective on July 1 of each year unless written notice of cancellation is given by either party to the other at least 180 days prior to the beginning of the next fiscal year.

G. REVIEW

Formal review of this Agreement shall take place either:

1) At any time during the term of this Agreement, at the request of either party the Agreement may be formally reviewed by either or both parties and amended as agreed;

2) Beginning on July 1 of 2013, and each five years after that date, the City will formally review the IGA and meet with the DAB to discuss potential amendments; or

3) At such time as the District Master Plan is amended, the City will review the IGA and propose amendments to the District within one year of the effective date of the amended master plan.

H. CONSTITUTIONAL LIMITS

This Agreement is subject to any applicable constitutional debt limitations and is contingent upon funds being appropriated thereof.

I. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties and supersedes any and all other agreements, written or oral, expressed or implied, pertaining to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by the duly authorized officers on the dates hereinafter written.

CITY OF MILWAUKIE	NORTH CLACKAMAS PARKS AND RECREATION DISTRICT
Pat DuVal / AIC	
By: Pat DuVal	By: Lynn Peterson
Date: 10/28/08	Date: December 18, 2008

ATTACHMENT #1

A. MILWAUKIE PARKS TO BE MAINTAINED AND OPERATED BY THE SERVICE DISTRICT

SITE

Ardenwald Park
Jefferson Street Boat Ramp
Spring Park (enhanced)
Stanley Park (excluding well site)
Century Park
Water Tower Park (excluding well site and water tank)
Furnberg Park
North Clackamas Park
Dogwood Park
Wichita Park
Scott Park
Robert Kronberg Park (enhanced)
40th and Harvey – NCP areas only
Lewelling Community Park
Homewood Park
Riverfront Park (enhanced)
Balfour Property (local share 2008)
Lake Rd Property (local share 2008)
Monroe Street Triangle (at 37th Ave)

B. MILWAUKIE OPEN SPACES TO BE MAINTAINED AND OPERATED BY THE CITY OF MILWAUKIE

Old Shop (40th & Harvey)
City Hall Grounds and Parking Lot
Well #8
New Century Player/Historic Society Building
Stanley Well area behind fence
Monroe/Washington Triangles
Water Tower Well areas behind fences and access road

If the City of Milwaukie so chooses, it may contract with the District to maintain some or all of the facilities listed above in Section B. If the City contracts with the District to maintain a facility listed in Section B, the District will charge the City a fee that will allow the District to cover (but not exceed) its maintenance costs.

ATTACHMENT #2

Park Maintenance Standards
City of Milwaukie

The Milwaukie Parks facilities are divided into several categories. The categories include: High Maintenance, Moderate Maintenance, Basic Maintenance, Special Use Facilities, Infrastructure and Natural Resource Maintenance.

HIGH MAINTENANCE AREAS

High Maintenance Areas include: Ardenwald Park, Dogwood Park, Lewelling Community Park, the Milwaukie Center, North Clackamas Park, Riverfront Park, Scott Park and Water Tower Park.

High Maintenance areas are those associated with City buildings, located in the downtown area, located at an entry point into the City or are high use areas. These areas are mowed a minimum of once per week, edged twice per month and fertilized two times per year. Tree rings and flowerbeds are edged with string trimmers bi-weekly. Broadleaf weeds will be treated as needed. Flower beds are weeded and sprayed as needed. Trash and litter will be picked up weekly. All high maintenance areas are irrigated. Irrigation will be programmed, maintained and winterized. Trees and shrubs will be pruned as needed. Leaves will be removed annually in the fall. Picnic tables, playground equipment and signage will be monitored and repaired. Fencing will be repaired as needed. Mowing in these areas should be performed March through November as weather permits.

MODERATE MAINTENANCE AREAS

Moderate Maintenance areas include: Century Park, Furnberg Park, Homewood Park, Stanley Park, and 40th Avenue Maintenance Area.

Moderate maintenance areas are typically neighborhood parks. These facilities are mowed an average of once a week, trimmed and edged with a weed-eater monthly. Fertilizers are not applied. Trash and litter is collected on a weekly basis. Playgrounds are inspected on a weekly basis. Herbicides are applied as needed. Picnic tables, playground equipment and signage will be monitored and repaired when needed. Mowing in these areas should be performed March through November as weather permits.

BASIC MAINTENANCE

Basic Maintenance areas include: Balfour St, Jefferson Street Boat Ramp, Lake Rd, Robert Kronberg Park, Spring Park, Wichita Park and Balfour St.

Basic maintenance includes weekly litter and trash removal. Mowing will occur twice

yearly. Restrooms will be cleaned and stocked weekly. Parking lot islands will be string trimmed as needed. Signage and picnic tables will be monitored and repaired as needed. Herbicides will be applied as needed. Mowing in these areas should be performed March through November as weather permits.

SPECIAL USE FACILITIES

Special use facilities: There are a variety of special use facilities. The facilities are treated differently based on the activities that occur within them. These facilities range from the Cemetery to the Boat Ramp. Pieces of larger facilities are included within this category. An example of this would be the horse arena at North Clackamas Park. Although North Clackamas Park is listed as a High maintenance area, many of its amenities fit within the special use category. For the purpose of establishing a standard, Special use facilities will be listed independently and defined separately.

Boat Ramp: The boat ramp is primarily a parking lot. It does have some planting area between the upper and lower lots which are kept clear of vegetation. The vegetation removal is done both manually and chemically. To the southern end of the parking lot is a small grass area. This area is mowed on an as-needed basis. Litter and garbage is collected twice a week during the non-fishing season and three times a week during fishing season. The heaviest use time for this facility is during the Spring Chinook run. During this time of year, the ramp area is patrolled on a daily basis for litter.

North Clackamas Park (NCP) Horse Arena: The horse arena at NCP is offered on both a reservation and drop in basis. The critical elements of the arena include the fencing and the footing. Footing is replaced on an ongoing basis. Fencing is repaired as needed.

NCP Ballfields: The Softball fields are mowed on a weekly basis. This begins in late March or early April. Lighting maintenance is performed on an annual basis when the ground is firm enough to support the needed truck. Historically, these facilities are fertilized annually.

NCP Picnic areas: The three picnic areas in NCP are rented on a daily basis beginning the week after May 1st through September 30th. The shelter tables are washed before every picnic.

INFRASTRUCTURE

Infrastructure: This heading includes such items as roads, irrigation, and restrooms.

Restrooms: There are ten restrooms. The first eight restrooms are located at NCP. These block-constructed restrooms are washed and sanitized using a mixture of chlorine bleach on a weekly basis. During days of scheduled events they are inspected at regularly scheduled intervals depending on the size and type of the event. The other two restrooms are all steel and are located at the boat ramp. These restrooms are

cleaned at least once per week. During high use time, such as the spring Chinook run, the restrooms are cleaned and inspected on a daily basis.

Sidewalks and Parking Lots: All debris is blown from sidewalks on a weekly basis. Parking lots and roadways are swept and repaired on an as needed basis by City of Milwaukie Public Works. The city street sweeper will sweep NCP and Milwaukie Center parking lots twice monthly.

NATURAL RESOURCE AREAS

Natural areas are found in the following City parks: Furnberg Park, Homewood Park, Spring Park, Kronberg Park, Dogwood Park, Scott Park, North Clackamas Park and Riverfront Park.

Natural areas are characterized as being largely undeveloped landscapes, with relatively intact ecosystem structure and functions, and used primarily for passive recreation. Natural areas are considered to have limited or minimal human disturbance and provide habitat for Lower Willamette Valley biotic communities in an urban setting.

The District will provide staff, organize volunteers or coordinate contract workers to enhance park ecosystems utilizing methods such as removing invasive and/or dangerous plants and trees, litter collection on an as-needed basis, replacing or planting native plants and clearing pathways in a manner fitting natural areas. The use of chemicals shall be minimized in these areas.

Where practical and safe, the District will consider the impacts of maintenance to natural cycles of succession, disturbance, and wildlife habitat needs. For example, dead or declining trees in a natural area may create opportunities for standing snags, nurse logs and brush piles. Aquatic features like pools or in stream woody debris are maintained even if doing so decreases drainage. Every effort should be taken to retain or increase available enhancement resources on a given site while maintaining a safe environment for the public.

Natural and sensitive areas shall be monitored for the following:

- Public use, such as high impact, vandalism, graffiti, or illegal activity
- Silt or debris loading and drainage of wetlands, ponds, and streams
- Presence of invasive plants
- Water quality and upstream impacts
- Dog or other pet impacts to turf, trails and wetlands

Natural areas are subject to litter and dumping activity. Park visitors are less likely to dump or litter if a site is clean and appears well maintained. Maintenance activities may discourage this activity through these routine tasks:

- Weekly to semi-monthly inspection of trailheads and street ends
- Quick response clean-up when incidents are reported
- Inspection of dumped materials to identify the perpetrator
- Prompt removal of encampments (Milwaukie Code Enforcement staff should be contacted to assist with this)

From: No Reply
To: Recorder Team
Subject: Public Comment Submission
Date: Tuesday, February 11, 2025 2:32:42 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Submitted by: Maryann Lee
Email Address: [redacted]

Commented on event: https://oregoncityor.portal.civicclerk.com/event/2982/overview
If you are having trouble viewing the URL above, cut and paste the string into your browser window.

User comment: My name is Maryann Lee, I live in Oregon City. I would like to comment on recent memorandums by our City Attorney and City Manager suggesting how to "clarify" Section 59 of the Oregon City Charter. Please do not extinguish our right to vote provision on urban renewal. It should be noted that thousands of our citizens signed an initiative petition in 2011-2012 to add section 59 to the city charter, and the measure passed by a 2:1 yes vote. Since 2011, only one plan for urban renewal, Measure 3-597 in 2023, has been put out for public vote. I voted against it, but I would have strongly supported a measure focusing on downtown especially if it included free parking for business customers. Like others, I wonder if we'd be discussing a plan to distinguish our right to vote if measure 3-597 had passed. Our City Manager's Feb 11, 2025 staff report to the Urban Renewal Commission lists a total of 7 options for the Urban Renewal Commission to consider. I strongly support Option 1: to place a new measure on the ballot, requesting approval to take on a certain amount of debt to complete one or more projects. With the other options, we would be throwing the baby out with the bath water. Please don't extinguish our right to vote.

Jakob Wiley

From:	James Nicita <james.nicita@gmail.com>
Sent:	Wednesday, March 19, 2025 12:08 AM
To:	Mike Mitchell; Denyse McGriff; Adam Marl; Rocky Smith, Jr.; Scott Wilson; Doug Neeley; Laurie Ariniello
Cc:	Tony Konkol; James Graham; Bill Kabeiseman; Alex Rains; Jakob Wiley; Recorder Team
Subject:	Beaverton and Corvallis right-to-vote charter amendments and voter approval
Attachments:	Corvallis_Gazette_Times_2018_07_12_A10_Corvallis.jpg; Corvallis_Gazette_Times_2019_03_14_A8_Corvallis Approval.jpg; The_Oregonian_2011_11_09_14_Beaverton Voter Approval.jpg

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My apologies for not changing the subject line in my last email.

On Tue, Mar 18, 2025 at 11:59 PM James Nicita <james.nicita@gmail.com> wrote:

Urban Renewal Commission:

I write to follow up on the below email I sent on February 23 (appended below), which suggests that a) the former city attorney, Mr. Sullivan, crafted Section 59(A)-(D) to base the charter right-to-vote on urban renewal debt provision on the state urban renewal statute's grant of authority to the city commission to amend an urban renewal plan, and by extension to require, per the charter, that the city commission not approve an amendment unless the vote requirement in the plan; and b) that this is exactly what occurred when the URC amended the UR plan to include the vote requirement in December of 2022, and the city commission approved that amendment in January 2023. Therefore, there is no conflict with state law, and a lawsuit will likely fail.

I have been researching what has happened in other cities regarding the right-to-vote on urban renewal, and, so far, I have found a number of other cities that have right-to-vote provisions, and two in particular that are very similar to ours, in that they also rely on the state urban renewal statute's grant of authority to a city council to approve and/or amend an urban renewal plan in order to control an urban renewal agency through that council-approved new or amended plan.

One is Section 7.2 of the city charter of Beaverton:

https://beaverton.municipal.codes/Charter/7.1

The second is Section 57 of the city charter of Corvallis:

https://www.corvallisoregon.gov/mc/page/chapter-10-miscellaneous

The history of these two provisions is relevant to the current Oregon City discussion.

The current push to go to court to invalidate Section 59(A)-(D) has arisen specifically because Oregon City voters rejected Measure 3-597 in 2023, a request for $44 million in bonded indebtedness to advance three projects on the north end of Oregon City.

It is frankly hard to believe that the current push would even be occurring if voters had approved Measure 3-597. Now claims are made, based on exactly ONE vote in the 12 years since Section 59(A)-(D) was adopted, that voters will never approve a request to issue bonded indebtedness.

Beaverton and Corvallis prove otherwise. Per the attached newspaper article, in 2011 Beaverton voters approved urban renewal for a "much-needed downtown face lift." (See article entitled "Levy," continued," in the November 9, 2011 issue of the *Oregonian*.)

In Corvallis, according to the attached editorial, "Officials must build the case for renewal," in the July 12, 2018 issue of the *Corvallis Gazette-Times*, in 2009 Corvallis voters turned down a request to create an urban renewal district for downtown and South Corvallis.

However, according to the attached editorial, "Voters offer green light for renewal," in the March 14, 2019 issue of the *Corvallis Gazette-Times*, that year Corvallis voters *approved* an urban renewal district for South Corvallis.

Now, the three above-referenced votes were for entire urban renewal districts / urban renewal plans, inclusive of bond financing.

Nevertheless, Section 59(A)-(D) allows for something very similar in Oregon City: ONE single vote could be taken to authorize "bonded indebtedness" for the entire current urban renewal plan that the URC approved in December 2022 and the city commission approved in January 2023. Or, for a new amended plan that actually focuses on downtown, unlike the current plan.

I would respectfully suggest that voter confidence in elected and managerial officials played a role in the approval of the Beaverton and Corvallis votes, as well as the quality of the plans at issue. If Oregon City elected and managerial officials earned the confidence of voters and, offered a high-quality plan focusing on downtown, or important strategic individual projects like the downtown courthouse, then I believe voters would give their approval.

James Nicita
Oregon City

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Urban Renewal Commission:

Here is a follow-up to my February 9 memo to you regarding the continuing viability of the citizen right to vote on urban renewal debt, Section 59(a)(i) of the city charter of Oregon City, notwithstanding the invalidation of Section 59(e) of the charter per the holding of the Court of Appeals in the *URC v Williams* case that "the charter cannot control an urban renewal agency." I am reattaching that memo to this email.

I have found the video of the city commission work session of January 11, 2011, and am linking to it here:

https://www.youtube.com/watch?v=q9uxDKO-caY

At min. 1:15:30, the former city attorney who drafted Section 59(a)-(d) of the charter, Ed Sullivan, explains why he drafted the provision the way he did.

His reasoning completely validates my argument to the URC in my February 9 memo.

Mr. Sullivan thoroughly anticipated the *URC v Williams* holding that "the charter cannot control an urban renewal agency. And yet, he addressed that very problem in the way he drafted the key element of Section 59(a)-(d) of the charter.

He explained that it was difficult to draft the amendment, because there was a problem in trying to control the urban renewal agency, a separate unit of government, through the city charter.

The solution he found was to rely on the point of intersection between the role of the city commission, on the one hand, and the urban renewal agency on the other: namely, when, pursuant to state law, the city commission adopts or amends an urban renewal plan formulated by the URA. This is precisely what I explain in my February 9 memo.

By wording the charter provision such that the city commission *has to include the right to vote in the urban renewal plan itself* when the city commission amends an urban renewal plan, there is no conflict with the urban renewal statute.

And, he also notes that he even ran the draft by the bond counsel for the urban renewal agency, Mr. Harvey Rogers, who signed off on the mechanism that Mr. Sullivan came up with.

By contrast, our current city attorney, Mr. Kabeiseman, I do not think has shared this background information with the URC. Nor, at least in any public meeting, does he appear to have ever acknowledged the continuing validity of Section 59(a)(i) despite the *URC v. Williams* case.

This is extremely ironic, given that Mr. Sullivan was Mr. Kabeiseman's employer and mentor. I am quite sure that back in 2011, Mr. Kabeiseman was fully aware of the mechanism that Mr. Sullivan had devised of integrating the right to vote into the urban renewal plan as part of any amendment.

And in fact, that is exactly what both the city commission did on January 18, 2023. *The city commission incorporated the right to vote into the amended urban renewal plan* precisely in the manner that Mr. Sullivan had devised in 2011, and which is now codified in Section 59(a)(i) of the city charter.

I hope the URC will seriously consider whether Mr. Konkol and Mr. Kabeiseman are leading the URC into expending - and wasting - tens of thousands of dollars on litigation that the URC will very likely lose.

James Nicita
Oregon City

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EDITORIAL

Officials must build the case for renewal

Corvallis is a tough place to make a case for an urban renewal district. The city's voters traditionally have been skeptical of proposals to create these districts, which have been important tools for other Oregon communities seeking ways to redevelop areas in need of fresh investment.

Part of that skepticism comes from the sheer complexity of urban renewal, in particular the complicated manner in which the districts are funded. And part of it, we suspect, is just a general lack of understanding of how such an urban renewal district could make a big difference in a community. (A trip to downtown Albany might help with that, but we'll return later to that point.)

In any event, that skepticism has played a role in scuttling previous plans for urban renewal districts in the city: The city's charter requires that any proposal to create such a district must be approved by voters. In 2009, city voters rejected a proposal to create a district that would have included downtown and parts of South Corvallis.

Now, city officials are floating a promising new plan for an urban renewal district in South Corvallis. The proposal, as it is currently drawn up, would help create a neighborhood center that would include housing, a grocery store, a food business incubator, other small businesses and a space for community gatherings. Coupled with a rebuilt Lincoln School, for which Corvallis School District voters approved funding this May, the district could provide the spark to spur additional investment in South Corvallis.

There's certainly interest in the plan: About 125 residents attended a Monday night open house about the project. The event included remarks from Corvallis City Manager Mark Shepard and Elaine Howard, who is serving as the lead consultant on the project.

The Monday event was a start. But city officials — including the nine members of the City Council — will need to grab every possible opportunity to explain the project, to answer questions and to keep a sharp eye out for misinformation.

Let's give the city a hand here: The question that was floated most often at Monday's open house was whether an urban renewal district would increase property taxes in the district.

Here's the answer: No.

Urban renewal creates money for public projects through a system called tax-increment financing. The district itself imposes no new taxes. But when a renewal zone is designated, any additional tax money that's created because of increasing property values in the district is earmarked for new projects within the district.

There is a trade-off: Setting aside that additional money for the district means that it's not available to be used in other branches of government. (It's worth noting, however, that one of those governmental branches, school districts, is reimbursed by the state for money it would have collected from the rise in property values.)

Over time, an urban renewal district can gather enough funding to bankroll big-ticket projects. Corvallis residents need look no further than Albany, where urban renewal helped revitalize that city's downtown. In fact, Albany's urban renewal district (dubbed the Central Albany Revitalization Area) paid for some $8 million of a just-completed $10 million project to redo downtown streets and sidewalks.

An urban renewal district, done right, might be able to do something similar in South Corvallis, where residents have waited for more than two decades for major redevelopment. But the decision to approve the district will have to be made by voters who live in other areas of the city as well.

All the more reason why city officials need to prepared with detailed explanations and patient answers to tough questions that will be raised again and again. We're excited by the possibilities an urban renewal district could unlock for South Corvallis. But if history is any indication, this could be a tough sell to voters. (mm)

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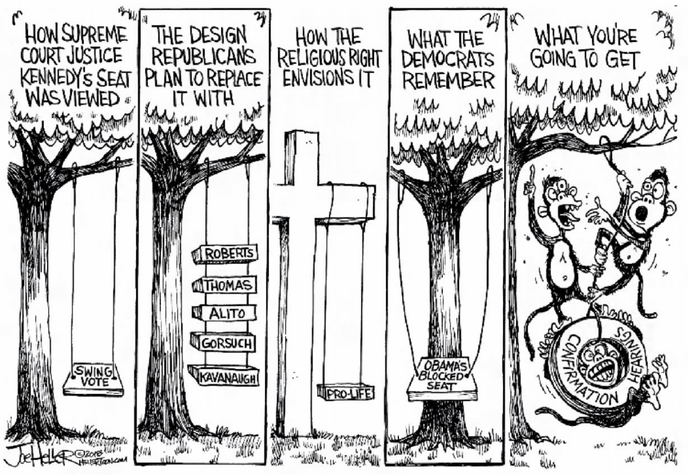

LETTERS TO THE EDITOR

Trump is bad, but maybe not all bad

As usual, Leo Quirk laments the "lack of evidence" for what I said in my recent column, "A Mistake of Biblical Proportions." If he wants evidence, he should read my article as it appeared on NewsMax.com, which included links to some "evidence." My evidence for Mr. Trump's "good instincts" on this one particular matter (separation of parents from children) was news reports, including one in The New York Times, which is hardly a Trump fan. Perhaps Mr Quirk thinks it was fake news?

As for "evidence," Mr. Quirk's letter provides ample evidence that he is prone to jump to outlandish generalizations on the basis of totally inadequate evidence. Nothing in my commentary suggested that Trump is an "arch-humanitarian" or that I have "experienced a change of heart about Trump." If anything, my distaste for Mr. Trump has increased since I wrote columns saying I would not vote for him for dogcatcher and that he lacked a presidential temperament.

Like all human beings, Mr. Trump is a mixture of good and bad ideas and approaches, and I do not think it is necessary to claim he is all bad just because he is so bad. If he can pull off a rapprochement with North Korea, for example, he may actually contribute something positive to the world. Just as it took a red-baiter like Richard Nixon to reverse American policy towards China, it may take a bull in the political china shop to fix our relations with North Korea.

Paul deLespinasse
Corvallis (June 29)

That was one short parade

I have concluded that Bennett Hall ("All-Comers Celebration," July 5, Gazette-Times) and I must live in separate universes. He gave an up-beat and joyful description of the July 4 parade as a marvelous display of enthusiasm and fun for cheering throngs of people.

It was fun. What there was of it. It started at 10:00 and was over at 10:09. Yes, it lasted a full nine (9) minutes. Surely we can do better. I suggest anyone wishing to see a parade should go elsewhere. I am embarrassed.

Robert Morris
Corvallis (July 6)

Other sites offer better solutions

I don't wish to disparage those in favor of a Second Street shelter; however, proponents don't seem concerned that a disproportionate number of people in the downtown core exhibit conduct that may appear victimless but nonetheless intrudes on the daily lives of community members.

Empirical data from CrimeReports.com shows that between Jan. 1 and June 29, 2018, the downtown core accounted for 35 percent of all drug and liquor incidents when compared to the whole of Corvallis. All but one downtown drug violation was due to methamphetamine possession. Liquor violations included public intoxication and consumption in public with 76 percent of these violations occurring between 9 a.m. and 5 p.m. In this same period roughly 33 percent of all assaults citywide were carried out adjacent to the Drop-in Center, Central Park, library, Transit Center, Safeway, Dari-Mart, and most frequently (roughly half) at McKinley Skate Park, which is one block from the proposed shelter.

In other words, the Second Street site already has a problem. Shall we now site Stone Soup in its midst? Should we relegate the blameless homeless individuals to this environment? Should parents of those who frequent the skate park be concerned? Do we site the shelter simply because of its proximity to homeless camps? Or do we change course?

We need to solve the underlying problem of the chronically homeless "frequent flyers" that are plagued by mental health issues and substance use. The expandable Belvue and Flomacher acreages have far more promise in advancing short and long-term solutions to homelessness.

Jan Napack
Corvallis (July 8)

Frolic change is disappointing

I was very disappointed to learn the Philomath Frolic Rodeo has changed the entire main grandstand to reserved seating with the width of each seat carefully defined and higher-priced seats being a little wider than merely reserved seats. Young children are now free if they sit on your lap. This is the kind of thing big city arenas and airlines do.

In Philomath gone are the days of the small-town rodeo where all seating was general admission and half the fun was changing seats during the rodeo to visit with first this friend and then that one.

I can understand the need to raise prices. Charging for parking is one way to increase revenue and raising ticket prices is also understandable. Changing the entire nature of the event just for money spoils the whole thing. I have attended for years but this seating approach ruins the experience. I will not return. I will miss the small-town rodeo atmosphere and fun. What a shame.

Michael Brantley
Corvallis (July 9)

Jaffer's the pick in District 23

Do you believe that voting is a fundamental right and responsibility of Oregonians? Then Danny Jaffer, the candidate for Oregon House District 23, is your best choice.

Our current representative, Mike Nearman, has a terrible record on voting rights issues. Nearman voted against HB 2177, the bill that said people who proved they were citizens would be automatically added to the voter roll as nonaffiliated voters. They could choose a political party or ask to be removed from the roll later if they wished. This common-sense bill became law in 2015, but Nearman voted against it.

Danny Jaffer is the best candidate for our rural District 23. He was born and raised in Monmouth, worked his way through Oregon State University, then served for nearly 25 years as a pilot in the U.S. Navy and U.S. Air Force Reserve. He earned a law degree from the University of Oregon School of Law and lives in rural Polk County. We need values of community, handwork, and public service in District 23. We need Danny Jaffer.

Linda Fredricks
Monroe (July 9)

Mural is playful, provocative

The beauty of art is how it exposes us to new ways of looking at life around us. For viewers, it can stimulate feelings and ideas that one may not have thought about or even agree with. The availability of art within our community provides opportunities for learning, wider conversation with others, and the expression of opinions and thoughts.

Our latest downtown art mural, "Dancing Bears,"on The Yoga Center side wall is joyful and playful. It is also a tongue-and-cheek. For me, it's a reminder that gender equality is still not mainstream for women in our culture. Women face under-representation in leadership roles, eroding reproductive rights, a large pay gap, and financial insecurity in old age. At the very least, this reminds us to teach our children to recognize what "inequality" looks like for others — regardless of gender.

This mural offers parents a teachable moment with their kids. The calypso song, "Man Smart, Women Smarter" was first recorded in 1936 and made famous by Harry Belafonte and The Grateful Dead. Instead of co-enabling children to develop uninformed opinions, take the time to discuss controversial points of view with them. Children are smart and daily experience concepts of inequality whether it's on the playground, between siblings, or from their own observations.

Using the benefits of age and life experience, adults can read the mural's lyrics from various perspectives without choosing to finger-point.

I choose to look at this mural's message as a positive reminder that we can do better.

Laura Berman
Philomath (July 8)

Signals on Kings are now a mess

I had high hopes several months ago upon learning the city was installing new traffic sensors at several intersections on Kings Boulevard to make traffic lights more responsive to improve traffic flow.

The old ones worked well, so naturally I figured the new ones would be even better. Big mistake, as it turns out. The intersections on Kings are now a mess, especially for southbound drivers.

Turn-lane arrows don't activate. Lights are often red in every direction. Northbound traffic gets a green, but southbound traffic must wait for 30-40 seconds to get a green, even if the northbound turn lane is empty. Etc., etc.

The intersections of Kings and Professional Drive (Timberhill Shopping Center) and Kings and Grant are the worst. I often see drivers simply run the red in frustration after waiting for the light to change.

Recently I told the Public Works Department of my concerns, after being stuck in a 17-car backup at the Kings-Grant intersection while heading downtown. I was told (politely) the contractors had not finished, and the problem would be resolved.

Several later, nothing has changed. The other day southbound traffic on Kings was backed up past Hayes waiting when the light at Grant remained red through three or four cycles and the lead driver refused to go, even though the light was obviously malfunctioning.

To those who must deal with the 35th Street/34th Street/Harrison Boulevard (an intersection I try to avoid) mess: I feel your pain.

Brooks Hatch
Corvallis (July 9)

OPINION

Your Community ... Your Newspaper
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EDITORIAL

Voters offer green light for renewal

Well, what do you know: Corvallis voters this week approved a measure to create an urban renewal district in South Corvallis.

And it wasn't a squeaker, either: It was a landslide, with nearly 85 percent of the voters who cast ballots in Tuesday's election voting "yes." Unofficial results showed 9,138 "yes" votes, as opposed to 1,623 "no" votes. Turnout was a little better than 33 percent, which we suppose is OK for an off-year special election, but still a little disappointing for a measure with this much potential import for all of Corvallis.

The results were particularly surprising when you consider what happened the last time Corvallis voters went to the polls to consider creating an urban renewal district, back in 2009: That measure, which would have created a downtown district, was rejected by a 55-45 percent margin and struggled from the start to persuade skeptical voters. (Corvallis' city charter requires a public vote on creating urban renewal districts, which is unusual among Oregon cities, and helps to explain why Corvallis had none even though dozens of these districts are in place throughout the mid-valley and the state.)

Tuesday's result showed that voters had no such skepticism about an urban renewal district in South Corvallis, and we have some theories as to why that might have been the case:

■ Proponents were smart from the start in hitching the urban renewal proposal to an existing plan to develop the area, the South Corvallis Area Refinement Plan, which dates back to 1997 but hadn't made much headway. The pitch was that urban renewal and its funding mechanism, tax-increment financing, would provide the resources the long-gestating plan required.

■ Proponents also spelled out specifically where the money raised by rising property tax values in the district would be spent, a big difference from the 2009 effort. There's a risk in that: This district is set to run for 30 years, and the needs 10 or 15 years from now could be different than they appear now. But putting such a strong focus on areas such as affordable housing and transportation safety — items that aren't likely to fade in importance — was smart, and gave voters a sense of where the money raised would be spent.

■ The project benefited from the start from strong and focused local leadership, notably staff members at Willamette Neighborhood Housing Services, Ward 3 Councilor Hyatt Lytle and Vincent Adams, the chair of the Corvallis School Board, who was an outspoken advocate for the proposal. Kate Porsche, now the economic development manager for the city of Corvallis, brought to her post considerable experience with urban renewal districts in Albany and was a key player.

■ The proposal didn't appear to have much, if any, trouble dealing with any X factors: The 2009 proposal, for example, included what was then the Evanite site (now Hollingsworth & Vose), and the rumor at the time (completely unfounded) was that the urban renewal district potentially could have let Evanite off the hook for any remaining environmental cleanup costs. Nevertheless, it is not a coincidence that the new South Corvallis district does not include the Hollingsworth & Vose site.

■ The needs for South Corvallis were (and have been) more apparent than the needs in downtown Corvallis were in 2009 — a message that might have been not-so-subtly communicated every time a voter drove by the site of the former Corvallis Auction Yard on Highway 99 West.

Whatever the reasons, we are gratified that Corvallis voters made the right decision in Tuesday's election.

It's traditional for editorials like this to end with lines about how the truly hard work begins now. And we don't want to discount the fact that much work remains.

But here's a case where plenty of hard work already has been tackled. It will provide a sturdy foundation as South Corvallis, and the rest of the city, begin a new era. (mm)

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LETTERS TO THE EDITOR

How we know vaccination works

In a recent letter, Doug Huntley wrote, "The gold standard for testing [drugs] is the randomized, placebo-controlled clinical trial. Vaccines are drugs so the same standard should apply."

Trials need controls, but the kind of control depends on the question asked. For most drugs, trials are complicated because people sometimes get better (or worse) when treated, whether the "treatment" is an effective drug or a piece of candy (a placebo). Therefore the question to ask isn't, "Does the drug work?" but, "Does the drug work better than a placebo?" The appropriate control is the placebo.

In some cases, there is an accepted treatment for the condition, but it has problems. Therefore, the question is "Does the new drug work better than the existing treatment?" The appropriate control is the accepted treatment, not a placebo.

In the case of vaccines, the question is, "Are vaccinated people healthier than unvaccinated people?" Therefore, the appropriate control group for learning about both effectiveness and safety is people who are not vaccinated. Initial tests for safety are performed on adult volunteers. Then the vaccine is given to children, if appropriate.

The familiar vaccines (measles, mumps, diphtheria, tetnus etc.) have been tested in adults and given to millions of children. Effectiveness and safety have been studied repeatedly by comparing the health of vaccinated to unvaccinated children. Some of the studies follow the children for years. Doctors know with certainty that vaccinations are much, much safer than getting these diseases.

Barbara Wilson
Corvallis (March 1)

Paulus' legacy touches us all

Norma Paulus did more to make Oregon all that we love about our state than anyone who has ever lived. She deserves to be remembered from the coast, which she protected for the public, to her hometown, Burns. Throughout her long public life, her fair-handed influence left a legacy that touches all of us.

Don Hall
Corvallis (March 1)

Letter triggers words of sorrow

My heart is heavy with sorrow upon reading the words of fear presented in John Penrod's letter, "We Are Being Taken Over." The specter described represents only a tiny fraction of the Misérables that seek our mercy.

I am led by the teachings of Jesus. Whenever confronted with a moral dilemma I try to ask myself, "What would Jesus do?" Throughout his ministry, Jesus consistently taught compassion and generosity for the less fortunate. Jesus tells the parable of the Good Samaritan. If you don't remember it, you can Google it.

The golden rule teaches us to: "Do unto others as you would have others do unto you."

Is it so hard to put yourself in the shoes of these unfortunate people? No one is asking you to give up all your belongings. Just give them the kindness and compassion you would want if you were in their position. They are not the "Other" as mongered by the fear merchants. They are our brothers and sisters on this small blue marble traveling through the cosmos. Peace on Earth.

Jerry Buthmann
Corvallis (March 3)

For free speech on US campuses

If Mike McInally, in a recent editorial, can ascribe a partisan motive to Donald Trump's enacting an executive order defending free speech on campus, as merely being a nod to his conservative base, I guess I'm free to ascribe Mike's criticism of such an order as an attempt to mollify the Gazette-Times' largely left-leaning, university-employed audience while somewhat meekly having to agree with Trump.

Incredible as claiming, without example, that Trump "is the most congenitally anti-free-speech administration in American history" (that's what you get for quoting The New York Times), is the equally puzzling claim that an executive order asserting your First Amendment right doesn't end on campus grounds, is in some way "chilling." Chilling in what way? I would have thought that suggesting a newspaper editor be imprisoned for printing a letter somebody else doesn't like to be "chilling," not telling little Stalinist tyrants they're not free to declare often public institutions (or editorial pages) their own private enclaves.

This shouldn't be a partisan issue at all: Everyone should agree that we should all have the equal opportunity to express our ideas; sadly the administrators and/or academicians of many schools are either too weak-willed, or themselves far too left-wing sectarian to stand up for this particular idea of fairness. Something should have been done decades ago to halt this. I'm not sure an executive order is what it's going to take to make sure people's right to express themselves is taken seriously on campus, but I think it's a step in the right direction.

Harry Mallory
Corvallis (March 5)

Taxpayers get stuck with bill

Sen. Sara Gelser and others need to explain why the $1.1 million fine was paid by the Oregon Legislature rather than from the pockets of the harassers. The U.S. Congress finally did away with using tax money to pay the fines for the criminal behavior of legislators. This act of the Oregon Legislature was patently illegal. Does the Legislature pay parking fines for legislators? Pay speeding tickets? The public needs an explanation of the legality of the $1.1 million.

Robin Rose
Corvallis (March 6)

The border is at a breaking point

"The families have overwhelmed facilities intended to house single adults."

"The system is well beyond capacity and remains at the breaking point."

These quotes are taken from a March 6 article that appeared in The Wall Street Journal concerning the recently increased number of families crossing our southern border illegally. There are people in the United States who deplore the U.S. turning away immigrant families or "caging" immigrant children whose families have caused them to cross the border illegally.

I would like to suggest creating a sign-up sheet for everyone who strongly opposes turning away these families or asking them to "spend days in cinder-block cells [term used in article, not my term] with no beds or showers."

Anyone who is appalled at and opposed to these actions would be asked to "sign up" to house and feed at least one of these families indefinitely. I'm sure they should be more than willing to do this in the name of humanitarianism. Once this sign-up system is in place, people will then be asked to either sign up or shut up.

Linda Stevenson
Corvallis (March 6)

No need to remove Rosemond column

In response to Dianne Farrell's request to remove John Rosemond's column: Hey, Dianne, don't read it. I feel it is one of the best things the Gazette-Times has going for it. This world needs all the common sense it can get. I don't always agree with "Doonesbury," but I don't ask for it to be removed.

Carole Parker
Corvallis (March 6)

Junk science clogged column

Regarding Paul deLespinasse's March 2 "Interfaith Voices" column: Professor deLespinasse wrote: "The relationship between religion and science has long been troubled." But not in the professor's essay. There was no religion in his column, save one use of "God," and no science of the brain, either.

Instead, the professor attempted to draw the reader into that dark hole of "junk science." He began the junk with "the body and a nonphysical mind not located in space or time ... functions of the mind rather than of the brain ... our nonmaterial minds."

Antonio Damasio, a neuroscientist and professor at the University of Southern California, wrote in 2010: "Minds emerge when the activity of small circuits is organized across large networks so a to compose momentary patterns." More below.

The evidence that the mind is in the brain is palpable. When otherwise "normal" humans suffer a decline of mental functions faster than that from ordinary aging, usually the diminution has been preceded by physical damage to the brain, e.g., through a football collision or a fall, Alzheimer's disease, alcoholism, etc. This evidence, while circumstantial, is present in overwhelming abundance.

Professor deLespinasse belittled scientists' efforts to understand memory. Yet there is direct experimental evidence that an event of elementary capture of a memory is accompanied by physical strengthening of the synaptic connections between neurons.

Professor Damasio's "circuits" consist of neurons and chemical ions and neurotransmitters — all of it physical, electrochemical material.

Benedictus Spinoza wrote in 1677: "We thus comprehend ... the human mind is united to the body."

Leo Quirk
Corvallis (March 6)

Voters on track to boost sales tax to help C-Tran

Selling a tax increase is never easy, but Tuesday's returns show Clark County voters approving a sales-tax bump to maintain bus service.

Proposition 1 calls for a 0.2 percentage point increase in the sales tax to maintain C-Tran and C-Van service. The measure is likely to be approved, with 54 percent voting yes in Tuesday's returns.

C-Tran spokesman Scott Patterson said that while there are still a lot of votes to be counted, "we certainly like the position we are in at this point."

"We're very pleased and also humbled by the response so far," Patterson added. "This is clearly an indication that people took a good, hard look at the measure and placed their votes accordingly."

In the Vancouver City Council race, incumbents Larry Smith and Bart Hansen were leading their challengers. In the race to fill Position No. 5 of the City Council, Smith has about 58 percent of the vote while challenger Cory Barnes has 41 percent. For Position No. 4, Hansen has a 9 percentage-point lead over Josephine Wentzel.

The council Position No. 6 race between Bill Turlay and Anne McEnerny-Ogle, meanwhile, is closer, with Turlay leading.

In the 49th House district race, Rep. Sharon Wylie, D-Vancouver, is leading challenger Craig Riley, R-Vancouver, by 13 percentage points.

The next election update from the Clark County elections department will be at 4:30 p.m. today. Election results will be certified Nov. 29.

— Kristine Guerra

Toll measure too close to call

OLYMPIA — Unofficial returns Tuesday showed Tim Eyman' s anti-tolling initiative was too close to call, with less than 51 percent of voters opposed.

Initiative 1125 would force the Legislature to vote on tolls, instead of allowing a commission to handle the issue. State officials fear the rules would scare away investors, who wouldn't want to purchase bonds backed by tolls that could be mired in a political process.

The measure also includes a provision that would halt light rail from running across the Interstate 90 bridge. Eyman's initiative campaign was largely funded by Bellevue developer Kemper Freeman, who has battled light-rail proposals for years.

The initiative drew broad opposition from business groups, Democratic leaders in Olympia and Republican gubernatorial candidate Rob McKenna.

A measure headed for approval means long-term care workers will get more training and face stiffer background checks.

Unofficial results showed Initiative 1163 passing Tuesday with about two-thirds support. Voters previously approved similar rules in 2008, but lawmakers had delayed implementation because of budget cuts.

The measure is projected to cost about $18 million in the next two years. It includes 75 hours of paid training, up from 35, and federal background checks, instead of state.

— The Associated Press

State universities won't appeal end of gun ban

New rules against firearms in classes, dorms and arenas are under development

By BILL GRAVES
THE OREGONIAN

The Oregon University System will not appeal a court ruling that declared the gun ban on its seven campuses exceeds its authority and is invalid.

The system still has authority to control its property and facilities and can make and enforce internal policies that ban guns from classrooms, dormitories and sports stadiums, said Chancellor George Pernsteiner on Tuesday.

Some universities, for example, prohibit firearms in sports arenas as a condition of purchasing a ticket.

"While we feel strongly that the court decision is not in the best interests of our students and campus communities, we do not want to go through a long and costly process (of appeal) that may produce the same outcome," Pernsteiner said in a statement. "Instead, we have started work on internal processes that are already in place or that we can put in place that will maintain a reasonable and satisfactory level of campus safety and security."

Kevin Starrett, executive director of the Oregon Firearms Education Foundation, questioned whether the university system can restrict students with permits from carrying guns in public buildings. He said he had predicted university officials "would try to find ways to circumvent the intent of the (court) decision."

The decision was the result of a lawsuit by the foundation, a nonprofit that fights for Second Amendment rights. Starrett said he could not say if the foundation would take further legal action.

"What we can do will be predicated on what they do," he said.

A three-judge panel of the Oregon Court of Appeals said in September that the State Board of Higher Education cannot use an administrative rule to ban guns. Only the Legislature can regulate the use, sale and possession of firearms, the court said.

Some campuses restrict guns from some buildings. Portland State University, for example, bars guns from its student housing, but students or faculty still can take concealed guns into classrooms and other buildings if they have permits, said spokesman Scott Gallagher. PSU has not made plans to restrict guns from buildings other than housing, he said.

But lawyers across the system are working on a comprehensive set of contracts and policies that would effectively ban guns from all classrooms, dorms and university buildings, said Di Saunders, spokeswoman for the system. It may take up to a year to put those changes into place.

In the meantime, students and faculty with permits can carry concealed guns into classrooms and buildings where contracts are not yet in place, she said. University leaders have not talked about turning to the Legislature to pass a law to keep guns off campuses, Saunders said.

Gun policies at the state's 17 community colleges, each of which has its own governing board, vary from bans to no restrictions.

The Oregon Community College Association has recommended they review policies in light of the university system court decision, said Andrea Henderson, executive director.

•

Bill Graves: 503-221-8549
bgraves@oregonian.com

Liquor

Continued from Page B1

whiskey and other distilled spirits in an effort to give the idea broader appeal.

To dispel concerns about liquor sales in mom-and-pop convenience stores, the ballot measure would delegate most sales to stores of 10,000 square feet or more. The language also included a boost in revenue for state and local governments by attaching a fee to liquor sales in grocery chains.

The opposition, funded primarily by wine and spirits wholesalers, put up about $12 million. The result was a crossfire of TV ads that dominated the race, both in Washington and in the Portland area.

Opponents argued that the change would result in easier access to liquor and more drunken drivers. Proponents focused on the extra money that would go to police and fire departments.

Voters waded through the conflicting messages "and just really came through on it," said Gilliam, the grocery spokesman. He expects to see some cross-border traffic as Oregonians try out the new law.

"Shoppers are really going to like it," he said. "They're going to see a better selection in nicer stores."

Initiatives

Continued from Page B1

lecting taxes on the new, theoretically much higher, property values.

Countywide, turnout topped 35 percent.

Public safety levy

Clackamas County voters renewed a five-year public safety levy that does not raise taxes. Measure 3-378 passed 75 percent to 25 percent.

The levy renews the existing five-year levy at a rate of 24.8 cents per $1,000 in assessed value. For the average home in Clackamas County with an assessed value of $200,000, the levy costs the owner $49.60 a year.

The levy currently pays for 19 patrol deputies, 31 staff positions to keep open 84 jail beds, enforcement of methamphetamine and other drug-related crimes, and other services, according to the sheriff's office.

West Linn police station

After a second attempt, West Linn residents voted 54 to 46 percent to authorize the city to seek $8.5 million in general obligation bonds to finance a new police station on Eighth Avenue. It will replace a more than 70-year-old building on Willamette Falls Drive that doesn't meet seismic standards and has a host of other maintenance issues.

Measure 3-377 will cost West Linn homeowners 16 cents for every $1,000 of assessed property value. The owner of a home with an assessed value of $285,000 will pay $45.60 more a year in property taxes.

Canby pool

In Canby, voters approved renewal of a property-tax levy to fund the city's swim center and pool maintenance until June 2017. Ballot Measure 3-385, which proposed a five-year local option tax levy, passed 56 to 44 percent.

The measure extends a fixed rate of 49 cents per $1,000 of assessed property value, or $122.50 for the owner of a $250,000 home.

Levy

Continued from Page B1

night to watch the returns come in, and he said the mood was somber.

"It puts us back in a place we were hoping we would not be," said Rose, in his first year as Beaverton's superintendent. "What we've described are dramatic cuts and that's if things hold steady. Obviously, this local option, if it was accepted by the public, it would have made a dramatic difference."

> "Obviously, this local option, if it was accepted by the public, it would have made a dramatic difference."
>
> **Jeff Rose**
> Beaverton School District superintendent

The district estimates it will have to cut between $24 million and $37 million next school year. It could be higher if state funding levels are reduced, Rose said.

The levy would have been used to preserve teaching jobs, academic programs and class sizes.

Asked if a local option levy would be on the May ballot, Cunningham said, "It's really too early to consider that."

Rose said the district will start talks soon with the community to help determine education priorities for the district.

"We are going build our budget from the ground up," he said.

Beaverton voters approved urban renewal as the primary way to pay for a much-needed downtown face-lift. The measure, which passed 54 percent to 46 percent, locks 997 acres of land in central Beaverton into an urban renewal district for up to 30 years.

In theory, the district spurs investment and construction, and when the district expires, the land inside is more valuable than it would have been. That could mean a greener, livelier city, with more jobs and less traffic, according to a proposed urban renewal draft.

"We're in a position to make wonderful, significant improvements to the city of Beaverton," City Councilor Marc San Soucie said.

Easing traffic on Southwest Canyon Road will be among the first projects, he added.

It's not a new tax. Urban renewal will use the difference in property tax revenue between a 2012 base assessed value and projected rising values to fund improvements.

Part of the money will repay up to $150 million in bond debt.

Overlapping taxing districts — schools, parks, fire — will forgo some of the future tax revenue on that swath of land. For example, the school district won't see $4 million of expected revenue over the next 30 years.

The close vote in Banks will determine whether the town renews its levy to contract with the sheriff's office for 50 hours of deputy time each week and will continue services beyond responding to emergency calls.

An error on the Sherwood ballot title to change the city charter might have contributed to its defeat, 53 percent to 47 percent. The measure would have lengthened the mayor's term from two to four years, and the council president's term from one to two years, starting with the 2012 general election, among other changes.

It was unclear whether Sherwood voters had agreed to bring 258 acres in the Brookman Addition inside city limits. Voters in both Sherwood and Brookman had to approve the measure, and the elections office will separate the votes today.

Wildlife advocates go to federal court for wolves

By NOAKI SCHWARTZ and MATTHEW BROWN
THE ASSOCIATED PRESS

PASADENA, Calif. — Wildlife advocates appeared in federal court Tuesday seeking to stop gray wolf hunts under way in the Northern Rockies, arguing that Congress overstepped its authority in stripping federal protections from the canines.

Federal biologists say the wolf population is healthy enough to support the hunts in Idaho and Montana. The two states want to drive down the predators' numbers to curb attacks on livestock and big game herds.

But wildlife advocates say too many wolves are being shot too quickly, threatening to unravel the species' decades-long recovery and killing animals closely followed by wolf watchers.

Almost 170 wolves have been shot since hunting began in late August.

"The longer the hunting season goes on, the more risk to the population in total," said attorney James "Jay" Tutchton. He spoke on behalf of WildEarth Guardians, one of the groups that sued Interior Secretary Ken Salazar.

Tuesday's hearing was before a three-judge panel of the 9th U.S. Circuit Court of Appeals in Pasadena.

The 9th Circuit agreed to hear the case on an expedited basis. But several groups involved in the lawsuit requested an injunction to stop the wolf killing while the case is pending.

Anna Seidman, with Safari Club International, said hunters are being careful and do not want to see wolves returned to the endangered species list. "The whole idea behind hunting is sustainable use to make sure they're here now and remain there for many generations," she said.

The U.S. Fish and Wildlife Service is monitoring the hunts, but agency officials said they have no plans to intervene because wolves have recovered in the region and the states have promised to manage them responsibly.

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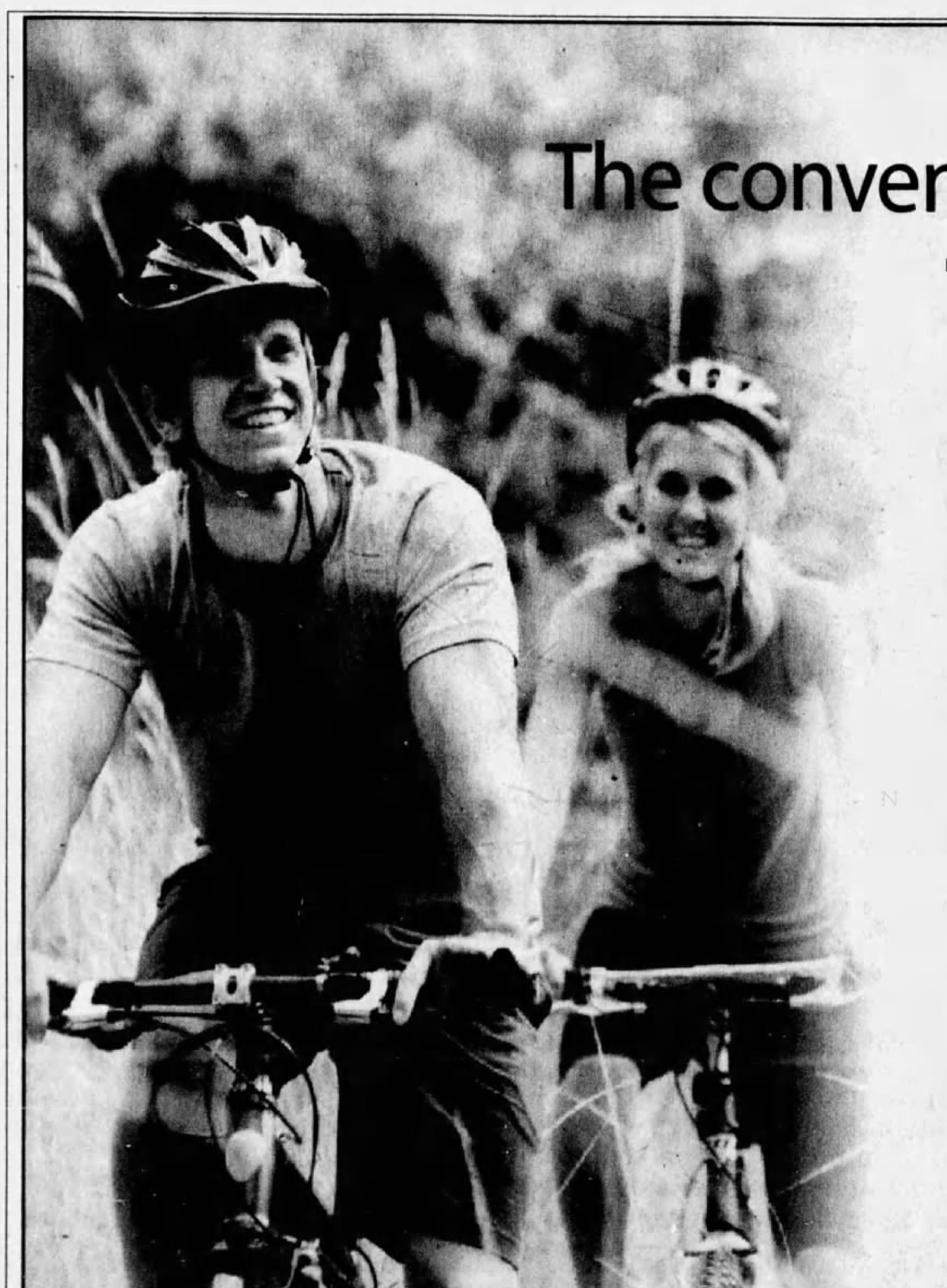

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Jakob Wiley

From: James Nicita <james.nicita@gmail.com>
Sent: Wednesday, March 19, 2025 5:22 PM
To: Mike Mitchell; Denyse McGriff; Adam Marl; Rocky Smith, Jr.; Scott Wilson; Doug Neeley; Laurie Ariniello
Cc: Tony Konkol; James Graham; Bill Kabeiseman; Alex Rains; Jakob Wiley; Recorder Team
Subject: Mr. Sullivan on the ability to have just one vote on debt for the entire urban renewal plan

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I finally found the videotape of the meeting during which Mr. Sullivan explained that the City could approve in one single vote all of the projects in the urban renewal plan.

It occurred at the January 31, 2011 URC meeting, at approximately minute 36:00, in response to a question from then-URC commissioner Phil Yates.

It is only a few minutes long, and I would encourage the board to ask Mr. Wiley to call up the YouTube video so that you can have that information for your deliberations tonight.

https://www.youtube.com/watch?v=kJsXbVxykFI

James Nicita
Oregon City

CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To:	Urban Renewal Commission	**Agenda Date:**	March 19, 2025
From:	Jakob Wiley, City Recorder		

SUBJECT:
Item 4.a. - Urban Renewal Budget Committee Appointments

STAFF RECOMMENDATION:
N/A

EXECUTIVE SUMMARY:
Mayor Denyse McGriff has made the following appointments to the Urban Renewal Budget Committee.

Appointed members of the URC Budget Committee:

- Chris Groener (term ending 12/31/2026)
- Damon Mabee (term ending 12/31/2027)

Members of the City Budget Committee that are also appointed to the URC Budget Committee:

- Bill Peterson (term ending 12/31/2028)
- Dave Hunt (term ending 12/31/2028)
- Sheri Weber (term ending 12/31/2027)

BACKGROUND:
N/A

OPTIONS:

BUDGET IMPACT:
N/A