CITY OF OREGON CITY
CITY COMMISSION REGULAR MEETING
REVISED AGENDA

Hanlon Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, October 1, 2025 at 7:00 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 public comment 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*

EXECUTIVE SESSION

The Executive Session will begin at 6:00 PM pursuant to ORS 192.660(2)(d): To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

REGULAR MEETING OF THE CITY COMMISSION

1. **CONVENE MEETING AND ROLL CALL**
2. **FLAG SALUTE**
3. **CEREMONIES AND PROCLAMATIONS**
   a. Domestic Violence Awareness Month Proclamation
   b. Indigenous Peoples' Day Proclamation
4. **PUBLIC COMMENTS**
   Please see the public comment guidelines below.
5. **PRESENTATIONS**
6. **ADOPTION OF THE AGENDA**
7. **CONSENT AGENDA**
   a. Professional services agreement Amendment No. 2 with Christine Landers Law LLC to recognize additional compensation for additional court prosecution services in the newly established Caring Court.
   b. Approval of Pro Tem Judges
   c. Amendment No. 1 to Judge Lindgren Employment Contract
   d. Minutes of the December 18, 2024 City Commission Regular Meeting
8. **PUBLIC HEARINGS**
   a. Public Hearing and First Reading of Ordinance No. 25-1012, Vacating Unimproved Right-of-Way Located Between 19530 South Central Point Road (Lot 1, *Filbert Orchard,* Recorded Plat No. 1744) and "Tract B," (*Ed's Orchard*, Recorded Plat No. 4503)
9. **GENERAL BUSINESS**
   a. Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek
   b. Sidewalk Repair/Replacement Permit Reimbursement Discussion
10. **COMMUNICATIONS**

City Manager

a. Street Tree Replacement

Commissioners

Mayor

11. ADJOURNMENT

ORDINANCE NOTICE

If an ordinance is noticed above in this agenda, the text of the ordinance is available online with the posted agenda packet. In addition, three copies are provided for public review in the Office of the City Recorder upon request.

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker's table, and state your name and city of residence. Each speaker is given 3 minutes to speak. Representatives of neighborhood associations may be given 5 minutes to speak if requested. As a general practice, the City Commission does not engage in discussion with those making comments. Complaints shall first be addressed at the department level prior to addressing the City Commission. Electronic presentations are permitted but must be delivered to the City Recorder 48 hours in advance of the meeting.

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.

PROCLAMATION

Whereas, domestic violence is a serious crime in Clackamas County that affects people of all races, ages, gender, and income levels; and

Whereas, family is the foundation of a safe and healthy community, and it is the goal of Clackamas County for our communities to be safe; and

Whereas, more than 16 million people in the U.S. suffer from intimate partner abuse per year in the United States; and

Whereas, 32 people experience intimate partner violence in the United States every minute; and

Whereas, 30.3% of families involved with the Department of Human Services Child Welfare department had domestic violence as a component of their case in 2024; and

Whereas, 1,106 victims of domestic violence requested a protection order in Clackamas County in 2024;

Whereas, 812 victims accessed wrap-around services for the first time at A Safe Place Family Justice Center, for a total of 3,400 visits in 2024; and

Whereas, victims should have help to find the compassion, comfort, and healing they need, and abusers should be held accountable to the fullest extent of the law; and

Whereas, only a coordinated community effort will put a stop to this serious crime; and

Whereas, Domestic Violence Awareness Month provides an excellent opportunity for people to learn more about preventing domestic violence and to show support for the numerous organizations and individuals who provide critical advocacy, services and assistance to victims;

Now, Therefore, I, Denyse C. McGriff, Mayor of Oregon City, do hereby proclaim:

October 2025
as
Domestic Violence Awareness Month

And encourage all citizens of the County to join in this observance and to learn more about what they can do to help end domestic violence both individually and collectively.

In Witness Whereof, I have hereunto set my hand this 1st day of October 2025.

_____

DENYSE C. MCGRIFF, Mayor

PROCLAMATION

INDIGENOUS PEOPLES' DAY

Whereas, the City of Oregon City recognizes that the Indigenous People of the lands that would later become known as the Americas have occupied these lands since time immemorial; and

Whereas, the City honors the fact that the City of Oregon City is built upon the traditional homelands of the Clackamas, Cascades, and Tumwater bands of Chinooks, the Tualatin, and Pudding River bands of Kalapuya and the Northern Molalla peoples and recognizes the inherent sovereignty of the nine federally recognized tribal nations in the State of Oregon and all Indigenous peoples everywhere; and

Whereas, the City values the many contributions made to our community through Indigenous peoples' knowledge, labor, technology, science, philosophy, arts and the deep cultural contribution that has substantially shaped the character of the City of Oregon City; and

Whereas, the City has a responsibility to oppose the systematic racism and colonization toward Indigenous people in the United States, which perpetuates high rates of poverty and income inequality, exacerbating disproportionate health, education, and social crises; and

Whereas, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the United Nations' sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and

Whereas, the City is committed to protecting and advocating for justice, human rights, and the dignity of all people who live and work in and vows Oregon City to uphold the United Nations Declaration on the Rights of Indigenous Peoples (the "Declaration") endorsed by the United States on December 16, 2010; and

Whereas, the Declaration recognizes the right of Indigenous peoples "to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information," and places an obligation in States to "take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society" and

Now, Therefore, I, Denyse C. McGriff, Mayor of the City of Oregon City, do proclaim

October 13, 2025 as Indigenous Peoples' Day

And, ask the citizens of Oregon City to utilize this day as an opportunity to reflect on the ongoing struggles of Indigenous people of this land,

And, to celebrate the thriving cultures and values of the Indigenous Peoples of our region,

And, to stand in solidarity with Indigenous peoples elsewhere; encourage other businesses, organizations, and public institutions to recognize Indigenous Peoples' Day on the second Monday in October;

And, commit to continue efforts to promote the well-being and growth of Oregon City's Indigenous community.

In Witness Whereof, I have hereunto set my hand this 1st day of October 2025.

_____

DENYSE C. MCGRIFF,
MAYOR

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

CITY OF OREGON CITY

Staff Report

To:	City Commission	**Agenda Date:**	October 1, 2025
From:	Matt Zook, Finance Director		

SUBJECT:
Item 7.a. - Professional services agreement Amendment No. 2 with Christine Landers Law LLC to recognize additional compensation for additional court prosecution services in the newly established Caring Court.

STAFF RECOMMENDATION:
Approval of Amendment No. 2 to the professional services agreement with Christine Landers Law LLC for additional prosecution services.

EXECUTIVE SUMMARY:
Staff recommend approval of an amendment to the Personal Services Agreement with City Prosecutor Christine Landers. The amendment adds a $1,000 monthly stipend from September 2025 through June 30, 2026, to compensate Ms. Landers for her expanded responsibilities in developing and overseeing the Oregon City Caring Court program. This adjustment reflects the additional workload and leadership required to implement the program while ensuring continued support for its success.

BACKGROUND:
The City Commission previously approved a Personal Services Agreement with Ms. Landers for prosecutorial services through June 30, 2026**.** Since that time, Ms. Landers has assumed significant additional duties related to the creation and implementation of the Caring Court, a community-based approach designed to address low-level offenses by connecting individuals with resources, reducing recidivism, and improving community safety.

OPTIONS:
1. Approve Professional services agreement Amendment No. 2 with Christine Landers Law LLC to recognize additional compensation for additional court prosecution services in the newly established Caring Court..
2. Approve Professional services agreement Amendment No. 2 with Christine Landers Law LLC to recognize additional compensation for additional court prosecution services in the newly established Caring Court. with Amendments.
3. Deny Professional services agreement Amendment No. 2 with Christine Landers Law LLC to recognize additional compensation for additional court prosecution services in the newly established Caring Court. and provide further direction.

BUDGET IMPACT:

Amount	$10,000

Fiscal Year(s):	2025-26
Funding Source(s):	Grant Funds through Intergovernmental Agreement Between Clackamas County and City Of Oregon City #11918

7-5-23 to 6-30-25

CITY OF OREGON
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement is entered into between Christine Landers Law, LLC (hereinafter, "Prosecutor") and the City of Oregon City ("the City") for the limited purpose of retaining Prosecutor to provide legal assistance in Oregon City Municipal Court.

In consideration of the mutual promises contained below, the parties agree as follows:

RECITALS:

A. City maintains a Municipal Court for the prosecution of criminal misdemeanors, traffic violations and municipal code violations.

B. City requires the services of a prosecutor for the purposes of screening cases, filing cases and performing all other functions normally associated with a prosecutor in a municipal court.

C. Prosecutor is capable and prepared to provide such services as City requires, under the terms and conditions set forth below.

AGREEMENT:

In consideration of the mutual promises contained below, the parties agree as follows:

1. **Independent Contractor:** Prosecutor has been engaged by the City to provide certain limited services to the City which shall be referred to in this Agreement as the "Services." The parties recognize and agree that Prosecutor is acting as an independent contractor, and not as an agent or employee of the City. As an independent contractor, Prosecutor is not eligible for, and shall not participate in, workers' compensation, retirement, insurance or other benefits afforded to employees of the City. Prosecutor waives any and all rights that Prosecutor might have under the City's welfare, pension, profitsharing or other benefit plans.

The City shall not withhold or pay any federal, state or local income or payroll tax of any kind on behalf of Prosecutor. Prosecutor acknowledges and agrees that she is solely responsible for the payment of any income or other taxes related to the Agreement and indemnifies and holds the City harmless for its failure to withhold or pay such income or payroll taxes.

Nothing in this Agreement shall create any partnership, joint venture, employment relationship or similar relationship between Prosecutor and the City. Prosecutor will not represent that she is the City's employee or agent nor enter into any agreement on the City's behalf. Neither party can be bound by the other to any contract, arrangement or understanding except with that party's prior written consent.

In the event that Prosecutor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to

Christine Landers

demand repayment of any amounts paid to Prosecutor under the terms of this Agreement, to the full extent of any benefits or other remuneration Prosecutor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Prosecutor or to a third party) as a result of said finding.

2. **Scope of Services:** The Services shall consist of those listed in Attachment "A," which by reference are incorporated herein. These Services are to include Community Enforcement issues including prosecution. Prosecutor will provide all equipment and supplies reasonably necessary to perform services. Prosecutor will perform the Services in a professional manner, and Prosecutor is responsible for any deficiencies in his work product or Services. Subject to the conditions of this Agreement, Prosecutor will retain control over the manner in which she performs the Services. Prosecutor will not subcontract any Services and will personally perform all Services except as provided herein.

3. **Compensation:**

a. City agrees to pay Prosecutor a flat rate of $66,000 in the first year to be paid in even monthly payments of $5,500 per month. The city agrees to an annual increase to the compensation effective July 1 of each year noted in the schedule below. The stated compensation includes the cost of providing discovery materials to defense attorneys and/or defendants and set-aside orders.

1st month pro-rated $ 4766.68

Effective date	Annual	
7/5/2023	$66,000.00	$5,500 monthly
7/1/2024	$69,000.00	5,750 monthly
7/1/2025	$72,000.00	6,000 monthly

b. For the purposes of this agreement, the calendar year begins July 1 of one year and runs through June 30 of the following year. The first month compensation shall be pro-rated based on the start date of July 5, 2023 and shall be $4,766.68.

c. City agrees to pay Prosecutor within 30 days after receipt of Prosecutor's itemized statement. Any amounts disputed by City may be withheld pending settlement of the dispute. In the event of disputed amounts, all undisputed amounts will be paid within 30 days of the receipt of Prosecutor's itemized statement.

d. City certifies that sufficient funds are available and authorized for expenditure to finance costs of this Agreement.

4. **Term:** The Term of this Agreement shall be from the July 5, 2023, through June 30, 2025, unless sooner terminated or modified pursuant to provisions set forth below. This term may be extended by mutual written agreement of the parties. Unless otherwise specified, any renewal of this Agreement shall be for one two (2) year duration. If any changes in scope, conditions or compensation are proposed, notice of such changes shall be in writing and shall be provided at least sixty (60) days prior to the expiration of this agreement.

5. **Termination:**

a. This agreement may be terminated without cause prior to the expiration of the agreed upon term by:

(1) Mutual written consent of parties; or

(2) Either party upon 60 days' written notice to the other, delivered by certified mail or in person.

b. Upon written notice of early termination, City shall immediately provide to Prosecutor a written statement regarding cessation of services to be performed under this Agreement.

c. An early termination of this Agreement shall be without prejudice to any obligation or liabilities of either party already accrued prior to such termination.

d. The rights and remedies of City or Prosecutor provided in this Agreement relating to defaults by either party shall not be exclusive and are in addition to any rights and remedies provided by law or contained within this agreement.

6. **Cancellation for Cause:** City may immediately cancel all or any part of this Agreement, effective upon delivery of written notice to Prosecutor by certified mail or in person, if Prosecutor fails to provide services called for by this Agreement within the time specified or any extension thereof; if Prosecutor fails to perform the work of this Agreement in accordance with its terms after receipt of 10 days' written notice from the City; or in the event of any of the following: insolvency of Prosecutor; voluntary or involuntary petition in bankruptcy by or against Prosecutor; appointment of a receiver or trustee for Prosecutor; or an assignment for benefit of creditors of Prosecutor. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

7. **Assignment:** In the event that the Prosecutor shall be unavailable to perform her duties due to illness, personal leave, unanticipated personal needs or other valid reasons, Prosecutor shall, at her own expense, make arrangements for a *pro tem* prosecutor. A *pro tem* prosecutor shall be selected from a list of qualified individuals provided by Prosecutor and approved by the City Manager.

8. **Conflicts of Interest:** In the event prosecutor cannot handle a particular case because of a conflict of interest, as defined in Oregon Rules of Professional Conduct 1.7-1.10, the prosecutor will make arrangements for a *pro tem* prosecutor to handle the case at the City's expense within the City's budgeted capacity.

9. **Screening of Cases and Prosecution:** City agrees that all potential filed criminal cases shall be screened by Prosecutor prior to filing. City also agrees that all decisions regarding filing a case, not filing a case, plea negotiations, trial procedures and all other policies for prosecution of criminal cases shall be within the sole discretion of Prosecutor. City agrees to file no criminal case without prescreening by Prosecutor.

10. **No Fringe Benefits**: As an independent contractor, Prosecutor is not eligible for, and shall not participate in, workers' compensation, retirement, insurance or other benefits afforded to employees of the City. Prosecutor waives any and all rights that Prosecutor might have under the City's welfare, pension, profitsharing or other benefit plans.

11. **Expenses:** The City shall not be responsible for any expenses paid or incurred by Prosecutor unless otherwise agreed in advance in writing.

12. **Federal, State and Local Taxes**: The City shall not withhold or pay any federal, state or local income or payroll tax of any kind on behalf of Prosecutor. Prosecutor acknowledges and agrees that she is solely responsible for the payment of any income or other taxes related to the Agreement and indemnifies and holds the City harmless for its failure to withhold or pay such income or payroll taxes.

13. **Professional Standards:** Prosecutor shall be responsible to the level of competency presently maintained by others practicing in the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and materials furnished under this authorization.

14. **Compliance With Laws:** Prosecutor will (a) comply with all federal, state and local laws, ordinances, regulations and orders with respect to its performance of the Services, (b) file all reports relating to the Services (including, without limitation, tax returns), (c) pay all filing fees and federal, state and local taxes applicable to Prosecutor's business as the same shall become due, and (d) pay all amounts when due required under local, state and federal law related to Prosecutor's business, including, but not limited to, workers' compensation coverage, unemployment insurance and any other required employee benefits.

15. **Disclaimer:** The City disclaims any responsibility for the safety of Prosecutor's workplace, and Prosecutor agrees to solely assume the risk of, and indemnify the City for, any injury or damage to persons or property arising out of or related to the Services contemplated under this Agreement.

16. **Insurance; Risk of Loss:** Prosecutor will maintain insurance policies (including, without limitation, professional liability insurance and statutory workers' compensation insurance) that are sufficient to protect Prosecutor's business against all applicable risks. Prosecutor will be liable for all loss or damage, other than ordinary wear and tear, to the City's property in Prosecutor's possession or control. In the event of any such loss or damage, Prosecutor will pay the City the full current replacement cost of such equipment or property within 30 days after its loss or damage.

17. **Protection of City Property:** All work performed by Prosecutor under this Agreement shall be the property of City. All records, files, manuals, client lists, forms, materials, supplies, computer programs, and other information or materials furnished to Prosecutor by the City, used on its behalf, or generated or obtained during the course of providing the Services are the property of the City (collectively "City Property"). Prosecutor will use City Property for the sole use and benefit of the City and will take all reasonable precautions to safely secure and preserve such property. Prosecutor, except as necessary for the

benefit of the City and to provide the Services, agrees not to make or cause to be made any copies, duplicates or other reproductions, or abstracts or summaries, of any City Property. Upon termination of this Agreement, and at any other time upon the City's request, or when Prosecutor is unable to continue in the required duties, Prosecutor will immediately deliver to the City or its authorized representative, all of the City Property. The parties agree to comply with all confidentiality provisions required of any applicable LEDS agreement. Prosecutor shall retain no copies of any City Property. The parties agree that Prosecutor's laptop computer, hardware, and software programs are Prosecutor's property and are not City Property.

18. **Right to Inspect/Reports:** City shall be afforded the right to inspect Prosecutor's work and have access to all case files, books, records, correspondence, instructions, receipts, vouchers and documents of every description pertaining in and manner to Services. Prosecutor shall, at such time and in such form as City may require, furnish such periodic reports concerning the status of the prosecution of any case, such statements, certificates, approvals and copies of proposed and executed plans and claims and other information relative to the prosecution of a case as may be requested by City. Prosecutor shall furnish City, upon request, with copies of all documents and other materials prepared or developed in relation with or as part of the prosecution of a case. Such documents or reports shall become City Property.

19. **City's Responsibility:** City shall furnish Prosecutor with all available information, date and materials pertinent to the execution of this Agreement. City shall cooperate with Prosecutor in carrying out the work herein and shall provide adequate staff for liaison with Prosecutor. City's duties shall include, but not limited to, providing Prosecutor with one copy of all discoverable materials and a single copy of the proposed defendant's criminal history in whatever forms available. City also agrees to be responsible for serving any subpoenas necessary for the prosecution of filed cases.

20. **Indemnification:**

a. Tort Indemnity: In the event of any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission of Prosecutor occurring in the performance of duty, the provision of the Oregon Revised Statues 30.285 and 30.287 shall govern.

b. Other Indemnity: Prosecutor will indemnify, defend and hold the City (and the City's agents and contractors) harmless from all claims, damages, losses, and expenses (including attorneys' fees) arising out of or resulting from any claim, action or other proceeding (including any proceeding by any of Prosecutor's employees, agents or other contractors) that is based upon (a) Prosecutor's breach of this Agreement, (b) a claim that Prosecutor is not an independent contractor, or (c) any negligent act or omission of Prosecutor that is not covered by the provisions of the Oregon Revised Statute 30.285.

c. General Liability Insurance: Prosecutor hereby certifies and warrants that she maintains general office liability insurance. Said insurance shall be maintained throughout the duration of this Agreement. Within ten (10) days after the execution of the Agreement, Prosecutor shall furnish City a certificate evidencing the dates, amounts and types of insurance that has been procured pursuant to this Agreement. Prosecutor will provide for not less than 30

days' written notice to City before the insurance policies may be revised, cancelled or allowed to expire. Prosecutor shall not alter the terms of any policy without prior written authorization from City. The provisions of this subsection apply fully to Prosecutor, her consultants and agents.

d. Professional Liability Insurance: Prosecutor hereby certifies and warrants that she maintains full professional liability coverage as directed by the Oregon State Bar and that said coverage is in effect at all times during the term of this Agreement.

21. **Waiver:** Failure to insist upon strict compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition, nor shall any waiver or relinquishment of any right or power under this Agreement at any one or more times be deemed a waiver or relinquishment of such right or power at any other time.

22. **Amendment:** No waiver, amendment or modification of this Agreement or any portion thereof, including any future representations that are inconsistent with the terms set forth herein, shall be valid unless made in writing and duly executed by each party hereto.

23. **Applicable Law/Venue/Jurisdiction:** This Agreement shall be governed by, and construed and enforced in accordance with, the substantive and procedural laws of the State of Oregon without regard to rules governing conflicts of law applicable to contracts made and to be carried out in Oregon.

24. **Attorney Fees:** In the event legal action is brought by City or Prosecutor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorney fees, costs and expenses as may be set by the court. "Legal action" shall include matters subject to arbitration and appeals.

25. **Compliance with ORS 670.600:** Prosecutor acknowledges that for all purposes related to this Agreement, Prosecutor is and shall be deemed to be an independent contractor as defined by ORS 670.600 and not an agent or employee of City. Prosecutor warrants that she understands and agrees that:

(1) The City will not control the means or manner of how Prosecutor will provide the labor or services, other than specifying the desired results;

(2) Prosecutor is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for Prosecutor to conduct the business;

(3) If licensure is required under ORS chapter 671 or 701, Prosecutor will ensure that she is licensed;

(4) Prosecutor is customarily engaged in an independently established business (that is, Prosecutor meets 3 out of the 5 requirements below):

(a) Maintains a business location that is separate from the business or work location of the City, or that is in a portion of the Prosecutor's residence that is used primarily for business.

(b) Bears the risk of loss related to the business or the provision of services as shown by factors such as:

(A) The person enters into fixed-price contracts;

(B) The person is required to correct defective work;

(C) The person warrants the services provided; or

(D) The person negotiates indemnification agreements or purchases liability insurance, performance bonds or errors and omissions insurance.

(c) Provides contracted services for two or more different persons within a 12month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.

(d) Makes a significant investment in Prosecutor's business through means such as purchasing tools or equipment necessary to provide the services; paying for the premises or facilities where the services are provided; or paying for licenses, certificates or specialized training required to provide the services.

(e) Has the authority to hire and fire other persons to provide or to assist in providing the services and has the authority to fire those persons.

26. **Severability:** If any clause or provision in this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, that clause or provision shall be void and the remainder of this Agreement shall remain in full force and effect.

27. **Entire Agreement:** This Agreement contains the entire agreement of the parties. This Agreement shall terminate and supersede any prior written or oral agreements or understandings between the parties regarding the subject matter of this Agreement.

28. **Acknowledgment:** Prosecutor acknowledges that she has read this Agreement, has had an opportunity to consult with an attorney regarding its terms, fully understands the meaning and significance of such terms, and accepts and signs this Agreement as her own free act and in full and complete understanding of its present and future legal effect.

By signing below, each of the parties enters into this Agreement as of the date below.

CITY OF OREGON CITY

By: Anthony J. Konkol III
Printed Name: Anthony J Konkol III
City Manager

Date: June 21, 2023

Address: 625 Center Street
Oregon City, OR 97045

By: Matt Zook 6/22/2023
Matt Zook, Finance Director

Approved as to Legal Sufficiency:

By: _____
City Attorney

PROSECUTOR (Christine Landers Law, LLC.)

By: _____
Printed Name: Christine Landers
Federal Taxpayer ID [redacted]

Date: 6/13/2023

Address: [redacted]

ATTACHMENT A
SCOPE OF SERVICES

GENERAL STATEMENT OF DUTIES: Provides professional legal services and advice to Municipal Court staff and Community Code Enforcement staff.

DUTIES: Prosecutor's duties may include any or all of the following (these examples are not exhaustive and do not necessarily include all of the services Prosecutor may be expected to provide):

1. Drafts and reviews complaints, orders, agreements, and other legal documents. Provides oral and written opinions on these matters as required.
2. Conducts legal research, prepares memoranda and provides advice to Municipal Court staff and Community Code Enforcement staff on a wide range of topics, issues and concerns.
3. Represents City of Oregon City in Municipal and State Courts upon appeal and wide variety of administrative proceedings.
4. Provides all discovery materials to defense attorneys and/or defendants.
5. Assists in the development of legislative and administrative policies.

Point of Contract: Municipal Court Manager
Term of Contract: 7/5/23- 6/30/26

FIRST AMENDMENT TO PERSONAL SERVICES AGREEMENT

THIS AMENDMENT TO THE PERSONAL SERVICES AGREEMENT is entered into between Christine Landers (hereinafter, "Prosecutor") and the CITY OF OREGON CITY ("the City").

In consideration of the mutual promises contained below, the parties agree as follows:

RECITALS

1. Prosecutor and City entered into a Professional Services Agreement (the "Agreement") on July 05, 2023, to provide legal assistance in Oregon City Municipal Court.

2. Section 3 (Compensation) of the Agreement reflects a three (3) year schedule in accordance with the intent of both parties.

3. Section 4 (Term) of the Agreement states that the term of this agreement shall be from July 5, 2023, through June 30, 2025, unless sooner terminated or modified pursuant to provisions set forth below.

4. Section 22 (Amendment) of the Agreement states no waiver, amendment or modification of this Agreement or any portion thereof, including any future representations that are inconsistent with the terms set forth herein, shall be valid unless made in writing and duly executed by each party hereto.

AGREEMENT

NOW THEREFORE, the parties mutually agree as follows:

1. **Term**. The term of this Agreement, unless sooner terminated pursuant to provisions set forth in the Agreement, shall be from July 5, 2023, to June 30, 2026. The Agreement shall be for one three (3) year duration. Section 4 will reflect this change. Renewal of this Agreement shall remain as state in the Agreement as one two (2) year duration.

2. **Full Force and Effect**; Except as provided herein, all other terms and conditions of the Agreement shall remain in Full Force and Effect.

By signing below, each of the parties enters into this Agreement as of the date below.

CITY OF OREGON CITY

By: _____
Printed Name: Anthony J Konkol III
City Manager

Date: 7-8-25

Address: 625 Center Street
Oregon City, OR 97045

By: _____
Printed Name: Matt Zook
Finance Director

Date: July 7, 2025

PROSECUTOR (Christine Landers)

By: _____
Printed Name: Christine Landers
Federal Taxpayer ID #: [redacted]

Date: 7/22/25

Address:

Point of Contract: Municipal Court Manager
Term of Contract: 7/5/23- 6/30/26

SECOND AMENDMENT TO PERSONAL SERVICES AGREEMENT

THIS AMENDMENT TO THE PERSONAL SERVICES AGREEMENT is entered into between Christine Landers (hereinafter, "Prosecutor") and the CITY OF OREGON CITY ("the City").

In consideration of the mutual promises contained below, the parties agree as follows:

RECITALS

1. Prosecutor and City entered into a Professional Services Agreement (the "Agreement") on July 05, 2023, to provide legal assistance in Oregon City Municipal Court.

2. The Agreement includes First Amendment effective July 22, 2025, correcting the term of the agreement.

3. The Agreement remains in effect through June 30, 2026, unless sooner terminated or modified in accordance with its terms.

4. The City desires to amend the Agreement to provide additional compensation to the Prosecutor for the added responsibilities of Caring Court.

5. Section 22 (Amendment) of the Agreement states no waiver, amendment or modification of this Agreement or any portion thereof, including any future representations that are inconsistent with the terms set forth herein, shall be valid unless made in writing and duly executed by each party hereto.

AGREEMENT

NOW THEREFORE, the parties mutually agree as follows:

1. **Additional Compensation;** In recognition of the additional duties associated with Caring Court, the Prosecutor shall receive an additional $1,000 per month in compensation, effective **September 1, 2025**, through the duration of the Agreement. This amount shall be in addition to the compensation already provided for in the Agreement.

2. **Full Force and Effect**; Except as provided herein, all other terms and conditions of the Agreement shall remain in Full Force and Effect.

By signing below, each of the parties enters into this Agreement as of the date below.

CITY OF OREGON CITY	PROSECUTOR (Christine Landers)
By: _____	By: _____
Printed Name: Anthony J Konkol III	Printed Name: Christine Landers
City Manager	Federal Taxpayer ID #: _____
Date: _____	Date: _____
Address: 625 Center Street Oregon City, OR 97045	Address:

By:

_____

Printed Name: Matt Zook
Finance Director

Date: _____

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

CITY OF OREGON CITY

Staff Report

To:	City Commission	**Agenda Date:**	October 1, 2025
From:	Matt Zook, Finance Director		

SUBJECT:
Item 7.b. - Approval of Pro Tem Judges

STAFF RECOMMENDATION:
Approve Rod Grafe, Bruce Shepley, Samuel Erskine, and Michael Tyner as Pro Tem Judges

EXECUTIVE SUMMARY:
On October 6, 2021, Oregon City Commission approved the employment agreement of Amy Lindgren as Municipal Court Judge. Judge Lindgren has actively engaged in the Oregon City Municipal Court operations and services. An important component of this process is the selection of Pro Tem Judges. Judge Lindgren presents the Commission with the list of four qualified candidates – Rod Grafe, Bruce Shepley, Samuel Erskine, and Michael Tyner. Attached to this staff report is a memo directly from Judge Lindgren regarding these candidates explaining the transition out of current Pro Tem Judges Cierra Brown and Daniel Woram and the addition of Samuel Erskine and Michael Tyner.

BACKGROUND:
In accordance with Section 7 of the Employment Agreement between the City of Oregon City and Amy Lindgren, the Judge shall be responsible to arrange for a Pro Tem Judge if Judge is unable to perform Judge's regular duties for any reason. The use and selection of Pro Tem Judges shall be selected from a list of qualified candidates and approved by the City Commission. The City will be responsible for employing and paying for such Judge Pro Tem services.

OPTIONS:
1. Approve Approval of Pro Tem Judges.
2. Approve Approval of Pro Tem Judges with Amendments.
3. Deny Approval of Pro Tem Judges and provide further direction.

BUDGET IMPACT:

Amount	$3,000-$5,000/yr
Fiscal Year(s):	FY 2025-2027 and beyond
Funding Source(s):	Municipal Court Budget, which is from the General Fund

OREGON CITY

Municipal Court

1234 Linn Avenue | Oregon City, OR 97045
Phone 503-905-3675 | Fax 503-657-1303

MEMORANDUM

TO: **OREGON CITY COMMISSION**

FROM: **AMY LINDGREN, OREGON CITY MUNICIPAL COURT JUDGE**

DATE: **SEPTEMBER 23, 2025**

RE: **APPOINTMENT OF PRO-TEM JUDGES**

The Oregon City Municipal Court has three pro-tem judges currently, Daniel Woram, Bruce Shepley and Rodney Grafe. The court previously had four pro-tem judges: Cierra Brown, Daniel Woram, Bruce Shepley and Rod Grafe. Cierra Brown was appointed to the Clackamas County Circuit Court recently and can no longer serve as a pro-tem judge. Additionally, Daniel Woram, Bruce Shepley and Rod Grafe are retiring soon and will phase out of being pro-tem judges for the court due to their limited availability. I ask that the City Commission continue the appointment of Mr. Shepley and Mr. Grafe, and also ask it to consider the addition of Samuel Erskine and Michael Tyner as additional pro-tem judges for the municipal court. Due to other court commitments and the start up of the Caring Court, I believe it would be in the court's best interest to have four pro-tem judges appointed.

On a personal note, I have known Mr. Erskine since I started working in St. Helens in 2018. Mr. Erskine is the city prosecutor for a number of cities, including St. Helens, and also serves as a pro tern judge for me in Gladstone. Mr. Tyner is a well-respected lawyer in Clackamas County. He began his legal career in the Clackamas County District Attorney's Office and now has a thriving practice of criminal defense work. Mr. Tyner works in Oregon City and has an office on Mollalla Ave. so will be available on short notice and for quicker conflict appearances. Both are straightforward and honest, and I know them to be highly respected members of the Oregon State Bar. I believe both would serve the Oregon City Municipal Court well. I have enclosed Mr. Erskine's resume and a letter of interest from Mr. Tyner for the City Commission to review.

Samuel Erskine

ERSKINE LAW PRACTICE
PO BOX 14003
PORTLAND, OREGON 97293
TELEPHONE: 503-404-3110
s.erskinelaw@gmail.com

Professional Experience

Attorney & Business Owner — Erskine Law Practice, LLC | *Portland, OR | July 2017 – Present*

- Manage a two-attorney practice providing prosecution services for the cities of St. Helens, Scappoose, Troutdale, and McMinnville.
- Oversee all aspects of prosecution including case review, trial appearances, administrative processing, and compliance with victim notification requirements.
- Advise city officials on police practices, training, and Oregon public records law compliance (City of St. Helens).
- Assist private clients in criminal, domestic relations, and administrative legal matters.

Pro Tem Judge — Various Municipal Courts | *Molalla, Canby, Gladstone | 2021 – Present*

- Preside over municipal court proceedings on an as-needed basis, ensuring fair and impartial hearings.

Administrative Law Judge — Office of Administrative Hearings | *Tualatin, OR | July 2016 – July 2017*

- Conducted contested case hearings for the Department of Motor Vehicles, ruling on testimony, exhibits, and motions.
- Drafted detailed final orders with factual findings and legal analysis; provided peer review and incorporated feedback.

Judicial Law Clerk — Multnomah County Circuit Court (Judges Angel Lopez & Thomas Ryan) | *Portland, OR | June 2011 – July 2016*

- Researched legal issues, supported courtroom proceedings, and managed court documents using the court's data system.

Volunteer Work

Mock Trial Coach — Franklin High School | *Portland, OR | 2022 – Present*

- Coached student teams to state-level competitions in each year of coaching.

Education & Licensure

University of Oregon School of Law — Juris Doctor, 2009
University of Arizona — B.A. in History, 2005 (cum laude)
Active Member in Good Standing — Oregon State Bar

Skills

- Courtroom litigation and trial advocacy
- Legal research and writing
- Municipal law and administrative hearings
- Conversational Spanish proficiency

Michael J Tyner
1001 Molalla Ave Suite 118
Oregon City, OR 97045
971-500-2857
MichaelTynerLaw@gmail.com
09/10/2025

Hon. Amy Lindgren
Oregon City Municipal Court
1234 Linn Ave
Oregon City, OR 97045

Re: Application for Pro Tem Judge Position

Dear Judge Lindgren,

I am writing to express my interest in serving as a pro tem judge for the Oregon City Municipal Court. With my background in criminal defense, prosecution and trial practice, I believe I have the experience, temperament, and dedication necessary to serve the Court and community in this role.

For the past five years, I have practiced criminal law, representing clients in misdemeanor and felony cases across the Portland metro area. I currently practice mainly in Clackamas County but was also recently contracted to take court appointed cases in both Lake Oswego and West Linn Municipal Court. Prior to becoming a defense attorney, I was a prosecutor at the Clackamas County District Attorney's Office for three and a half years. This work has given me extensive courtroom experience, from arraignments to jury trials, and a deep understanding of municipal court procedure. More importantly, it has reinforced my commitment to fairness, impartiality, and ensuring that every individual is heard and treated with dignity.

I am confident that my legal knowledge, ability to manage a courtroom, and respect for the rule of law would allow me to contribute effectively as a pro tem judge. I would welcome the opportunity to serve the Court when needed, and to support the important work it does for the people of Oregon City.

Thank you for your time and consideration. I look forward to the opportunity to discuss my qualifications further.

Respectfully,

Michael J Tyner

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

CITY OF OREGON CITY

Staff Report

To:	City Commission	**Agenda Date:**	October 1, 2025
From:	Amy Lindgren, Municipal Judge		

SUBJECT:
Item 7.c. - Amendment No. 1 to Judge Lindgren Employment Contract

STAFF RECOMMENDATION:
Approval of Amendment No. 1 to the professional services agreement with Judge Amy Lindgren for additional judicial services for Oregon City Caring Court.

EXECUTIVE SUMMARY:
Recommend approval of an amendment to the Personal Services Agreement with Judge Amy Lindgren. The amendment adds $45,396 total from ($1200/month with a 5% annual increase in year 2 and 3), to compensate Judge Lindgren for her expanded responsibilities in developing and overseeing the Oregon City Caring Court program. This adjustment reflects the additional workload and leadership required to implement the program while ensuring continued support for its success.

BACKGROUND:
The City Commission previously approved a Personal Services Agreement with Judge Lindgren for judicial services through October 31, 2025. Since that time, Ms. Lindgren has assumed significant additional duties related to the creation and implementation of the Caring Court, a community-based approach designed to address low-level offenses by connecting individuals with resources, reducing recidivism, and improving community safety. The additional pay of $45,396 is included in the grant Judge Lindgren secured from Clackamas County.

OPTIONS:
1. Approve Amendment No. 1 to Judge Lindgren Employment Contract.
2. Approve Amendment No. 1 to Judge Lindgren Employment Contract with Amendments.
3. Deny Amendment No. 1 to Judge Lindgren Employment Contract and provide further direction.

BUDGET IMPACT:

Amount	$45,396
Fiscal Year(s):	2025-2028
Funding Source(s):	Intergovernmental Agreement Between Clackamas County and City of Oregon City #11918

EMPLOYMENT AGREEMENT

City of Oregon City, Oregon

And

Amy B. Lindgren

RECITAL:

This Employment Agreement (hereinafter "Agreement") is made and entered on the day set out above the signatures below, by and between the City of Oregon City, an Oregon municipal corporation, (hereinafter "City") and Amy B. Lindgren, (hereinafter "Judge") to set forth the terms and conditions established by these parties for the City's employment of Judge.

IT IS AGREED:

Section 1: Term

The Judge's date of hire as Municipal Court Judge shall be the date this Agreement is signed by and on behalf of the parties following authorization by the Commission. The term of this Agreement shall be two years from the date of Judge's hire. Unless the City or Judge notifies the other of an intention to terminate the Agreement at least 60 days in advance of its expiration date, this Agreement shall be automatically renewed for successive two (2) year terms from its then current date of expiration. Notwithstanding the term of this Agreement, Judge's employment shall be "at will." Accordingly, both Judge and the City remain free at all times to terminate the employment relationship, with or without cause, subject to the provisions of Section 9, below.

Section 2: Duties and Authority

City employs Judge to perform the functions and duties of the position of the Municipal Court Judge for the City of Oregon City, as specified in Section II of the City Charter. Duties shall be judicial in nature and shall include, but are not limited to hearing pleas, conducting bench and jury trials, reviewing case-related correspondence, and consulting with City of Oregon City staff in the development of policies and procedures related to operation of the Municipal Court. Judge shall devote sufficient time to insure maintenance of a current docket and opportunity for evening court appearances by the public.

Judge shall be classified and paid as an employee of the City of Oregon City pursuant to US Internal Revenue Service regulations and will be subject to the City's standards of conduct and behavior for its workplace, including but not limited to the City's non-discrimination, anti-harassment, anti-retaliation, workplace safety and other policies applicable to employees. Nothing in this Agreement, however, is intended to supersede Judge's obligations under the Oregon Code of Judicial Conduct, to supersede or interfere with the functions of the court as provided by law, or to otherwise authorize the City Commission or Oregon City's public officers or employees to exercise any supervisory or other authority over Judge's judicial decision making or other judicial authority.

Judge agrees to carry out the duties of the Municipal Court Judge position in a timely, consistent, and impartial manner in accordance with the Oregon Code of Judicial Conduct.

Section 3: Work Hours

The City anticipates that the duties of the Municipal Court Judge position will be part-time and require Judge to work approximately 40 hours per month. However, both Judge and the City recognize that the hours devoted by Judge to perform the position responsibilities may vary with the caseload of the Court and Judge is expected to work whatever hours are needed to meet the caseload.

Section 4: Compensation and Benefits

Commencing on the hire date, the City shall pay Judge for services rendered on a salary basis equivalent to five thousand dollars ($5,000.00) per month. The Municipal Court Judge position will be classified as a salaried exempt position and this salary will cover all of Judge's hours worked, regardless of the number. Although paid on a salary basis, the Judge agrees that she will continue to report all hours worked in the City's time and attendance system to allow the City to accurately report hours to PERS (Public Employees Retirement System).

Judge's salary will be adjusted for cost-of-living increases, if any, each year at the same time and at the same percentage as other management and supervisory employees of the City and as approved by the City Commission. Judge will also be eligible to receive discretionary merit pay or bonuses based on the City Commission's evaluation of Judge's performance (e.g., Judge's attendance, productivity, timeliness of moving cases through the docket, ability to work effectively with City staff, etc.). Merit pay, if any, will be evaluated and awarded within one month after the performance review described in Section 8 of this Agreement. Judge understands and agrees that cost of living adjustments and merit pay are not guaranteed but are granted at the discretion of the City Commission.

Section 5: Benefits

During Judge's employment, Judge shall accrue 2 hours of paid sick leave benefits per month. Sick leave benefits will accrue beginning on Judge's first day of employment and may be used for purposes covered by and in accordance with Oregon's paid sick time law. Up to 40 hours of accrued paid sick leave benefits may be carried over from one year to the next and Judge may accumulate a maximum of 80 hours of paid sick leave benefits. Paid sick leave benefits are not vested and will not be paid out upon Judge's separation from employment for any reason.

The City will report Judge's hours worked in accordance with applicable PERS statutes and regulations.

As a part-time employee regularly scheduled to work fewer than 20 hours per week, Judge will not be eligible for any other employment benefits except as expressly outlined in this Agreement or required by law.

Section 6: Professional Development

The City will provide funding of the Judge's registration and reasonable travel and related expenses to attend approved professional meetings, seminars, and professional development

courses, including but not limited to the Judge's Conference and up to two (2) CLE classes on Evidence and Criminal Law each fiscal year. Such funding shall be subject to Commission approval and any limitations outlined in the City's annual budget.

Section 7: Use and Selection of Judge Pro Tem

Except as otherwise provided by applicable law (e.g., during periods covered by Oregon Paid Sick Time law), Judge shall be responsible to arrange for a Pro Tem Judge if Judge is unable to perform Judge's regular duties for any reason. Pro Tem Judges shall be selected from a list of qualified candidates and approved by the City Commission. The City will be responsible for employing and paying for such judge pro tem services.

Section 8: Performance Review

The first six (6) months of Judge's employment with the City shall be a probationary period. During this period, Judge's performance (including Judge's work habits, attendance, productivity, and ability to work effectively with City staff, etc.) will be evaluated by the City Commission.

Judge's performance shall be reviewed by the City Commission prior to completion of the probationary period and annually thereafter, in the month of June. The City Commission may also conduct a performance review prior to the expiration of this Agreement. For purposes of the performance review, comments may be solicited from partners of the court including the Court staff, Police staff, the City Manager and/or defense attorneys. The evaluation will be based on the Judge's job functions, work habits, productivity, ability to work effectively with City staff, etc. as well as any specific goals and objectives identified by Judge and Commission periodically. Judge shall inform the City Commission regarding the amount of time that Judge spends in Municipal Court as well as Judge's evaluation of Municipal Court matters.

Section 9: Separation of Employment

Judge shall be employed on an *at-will* basis. Judge's employment may be terminated by either party at any time for any reason. The parties agree, however, to provide notice of their intention to end the employment relationship as follows:

1. Voluntary Resignation by Judge: Judge agrees to give the Mayor and City Commission at least sixty (60) calendar days' written notice in advance of her intention to resign employment with the City. During the notice period, Judge agrees that she will remain available to serve and continue to perform her duties in full unless relieved those duties by the City Commission or Judge's absence is otherwise protected by applicable law. Judge also agrees to cooperate in every way with the smooth and efficient transfer of the Municipal Court Judge position duties to a newly appointed Judge or Interim Judge. The City Commission reserves the right, in its sole discretion, to accelerate Judge's employment separation at any time during this notice period.

   If Judge submits notice of resignation during the probationary period of employment and the Commission elects to accelerate Judge's separation, Judge will be paid for all hours worked in accordance with applicable law but shall not be entitled to pay for any time not actually worked.

If Judge submits notice of resignation after successful completion of the probationary period and the Commission elects to accelerate Judge's separation, it will pay Judge for the balance of the 60-day notice period remaining at the time of separation.

2. Termination by City Without Notice - Probationary Period of Employment:

   Judge's employment may be terminated by the City at any time during the probationary period, with or without advance notice, and without payment for any time not actually worked by Judge.

3. Termination by City with Notice: Following satisfactory completion of the probationary period of employment, this Agreement and Judge's employment may be terminated by the City for any reason whatsoever upon giving not less than sixty (60) calendar days' written notice to the Judge. During the notice period, Judge agrees that she will remain available to serve and continue to perform her duties in full unless relieved those duties by the City Commission or Judge's absence is otherwise protected by applicable law. Judge also agrees to cooperate in every way with the smooth and efficient transfer of the Municipal Court Judge position duties to a newly appointed Judge or Interim Judge. The City Commission reserves the right, in its sole discretion, to accelerate Judge's employment separation at any time during this notice period. However, if the Commission elects to accelerate Judge's separation, it will pay Judge for the balance of the 60-day notice period remaining at the time of separation.

Section 10: Indemnification

The City of Oregon City will defend and indemnify Judge against any demands, claims or actions arising out of the judicial services furnished by Judge in accordance with the provisions of ORS 30.285.

Section 11: Other Terms and Conditions

4. Integration. This Agreement and its Addendum A contains the entire Agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

5. Effect of Waiver. The waiver by either party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. No waiver shall be valid unless it is in writing.

6. Severability. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable and shall not be affected, and shall remain in full force and effect.

7. Relationship to City Policies of General Application. The terms of this Agreement shall control over inconsistent terms and elements of personnel policies of the City of Oregon City. To the extent that this Agreement is not inconsistent therewith, Oregon City policies shall constitute terms and conditions governing Judge's employment.

8. Arbitration. In the event the parties have a dispute concerning the terms of this Agreement, the terms and conditions of the employment relationship, or the violation of any federal, state

or local law relating to the employment relationship then the dispute shall be resolved by submitting it to binding arbitration in accordance with the **Arbitration Agreement, which is attached hereto as Addendum A** and incorporated by reference.

9. Amendment. Nothing shall restrict the ability of Judge and the City to amend or adjust the terms of this Agreement. However, no amendment or adjustment shall be valid unless in writing and signed by both Judge and the Mayor and City Recorder as authorized by action of the City Commission.

THEREFORE, THE CITY OF OREGON CITY BY AND THROUGH ITS MAYOR AND CITY COMMISSIONERS HAVE DETERMINED TO APPOINT AMY B. LINDGREN AS MUNICIPAL COURT JUDGE AND EMPLOY HER IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, WHICH AMY B. LINDGREN ACCEPTS, and accordingly, the City of Oregon City has caused this Agreement to be signed and executed on its behalf by the Mayor and duly attested by the City Recorder, and the City Manager has signed and executed this Agreement, both in duplicate, this first day of November, 2021.

9/23/21
Amy B. Lindgren

Rachel Lyles Smith, Mayor

ATTEST:

Jakob Wiley, Interim City Recorder

ADDENDUM TO EMPLOYMENT AGREEMENT

City of Oregon City, Oregon
And
Amy B. Lindgren

RECITAL:

This Addendum to the Employment Agreement (hereinafter "Addendum") is made and entered on the day set out above the signatures below, by and between the City of Oregon City, an Oregon municipal corporation, (hereinafter "City") and Amy B. Lindgren, (hereinafter "Judge") to set forth the terms and conditions established by these parties for the City's employment of Judge.

This Addendum is intended to modify the existing Employment Agreement between the City and the Judge to reflect additional responsibilities and compensation for work performed in connection with the City's Caring Court program.

IT IS AGREED:

Section 1: Additional Duties related to Caring Court

The City employs the Judge to perform the functions and duties of the Municipal Court Judge for the City of Oregon City, as specified in Section II of the City Charter.

In addition to the standard duties outlined in the Employment Agreement and City Charter, the Judge agrees to undertake additional responsibilities associated with the operation and oversight of the Caring Court program, a specialized municipal court initiative.

Section 2: Additional Compensation related to Caring Court

Effective as of the Judge's start date with the Caring Court program, and contingent upon continued operation and funding of the program, the City shall pay the Judge additional compensation in the amount of $1,200 per month with a 5% annual increase effective 7/1/2026 and 7/1/2027.

This compensation shall be paid on a salary basis and is intended to cover all time and services provided by the Judge in support of the Caring Court program, regardless of the number of hours worked.

Although compensated on a salary basis, the Judge agrees to continue reporting all hours worked through the City's time and attendance system to ensure accurate reporting to the Public Employees Retirement System (PERS).

This additional compensation shall remain in effect only for the duration of the Caring Court program's operation and funding. In the event the program is discontinued or no longer funded, this additional compensation shall cease without further obligation by the City.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the dates set forth below:

CITY OF OREGON CITY

By: _____

[Name]

[Title]

Date: _____

JUDGE

By: _____

[Judge's Full Name]

Date: _____

CITY OF OREGON CITY
CITY COMMISSION REGULAR MEETING - REVISED DRAFT MEETING MINUTES

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, December 18, 2024 at 7:00 PM

REGULAR MEETING OF THE CITY COMMISSION

1. CONVENE MEETING AND ROLL CALL

Mayor Denyse McGriff convened the meeting at 7:04 P.M.

PRESENT: 5 - Commissioner Adam Marl, Commissioner Mike Mitchell, Commissioner Rocky Smith, Commissioner Frank O'Donnell, Mayor Denyse McGriff

STAFFERS: 11 - City Manager Tony Konkol, Assistant City Manager Alex Rains, Assistant City Recorder Evan Lee, Police Chief Shaun Davis, Public Works Director Dayna Webb, Communications Manager Jarrod Lyman, Community Development Director Aquilla Hurd-Ravich, Planning Manager Pete Walter, Finance Director Matt Zook, Economic Development Manager James Graham, Human Resources Director Patrick Foiles

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

a. Commissioner O'Donnell Service Recognition

Wyatt Parno thanked Commissioner O'Donnell for his service on behalf of the South Fork Water Board and presented him a plaque.

Doug Neeley, resident of Oregon City, thanked Commissioner O'Donnell for his service.

Tim Powell thanked Commissioner O'Donnell for his service on behalf of the McLoughlin Neighborhood Association.

Tom Geil, resident of Oregon City, thanked Commissioner O'Donnell for his service on the Commission.

Laurie Arinello, resident of Oregon City, thanked Commissioner O'Donnell for his service on the Commission.

The Commission also thanked Commissioner O'Donnell. Mayor McGriff presented him with a plaque.

Commissioner O'Donnell proposed that future Commissioners were paid by the City. He compared to West Linn, who was paying theirs.

b. Oregon City's 180th Anniversary Proclamation

Mayor McGriff read the proclamation declaring December 24, 2024, as Oregon City's 180th Anniversary.

4. PUBLIC COMMENTS

None.

5. PRESENTATIONS

6. ADOPTION OF THE AGENDA

Item 7d was pulled from the consent agenda. The agenda was adopted as amended.

7. CONSENT AGENDA

Motion by Commissioner Marl, seconded by Mayor McGriff, to approve the consent agenda except Item 7d. The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

a. Resolution 24-30, Certifying the November 5, 2024 General Election Results and Delivery of the Certificates of Election

b. Intergovernmental Agreement with Oregon Department of Transportation for Right of Way Services Related to the Downtown Quiet Zone Project

c. Construction Contract with Brandsen Hardwood Floors, Inc. for the Oregon City Library Wood Flooring Replacement Project

d. Confederated Tribes of the Grand Ronde tumwata village complete streets RAISE grant letter of support

Commissioner Marl pointed out typos in the letter.

Motion by Commissioner Marl, seconded by Mayor McGriff, to approve the letter of support as amended. The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

e. Minutes of the August 07, 2024 City Commission Meeting

8. PUBLIC HEARINGS

a. Second Reading of Ordinance No. 24-1008, Erosion and Sediment Control Code Amendment - OCMC 17.47 (GLUA-24-00026, ZC-24-0002, LEG-24-00003)

Mayor McGriff opened the public hearing.

There was no public testimony.

Mayor McGriff closed the public hearing.

Motion by Commissioner Mitchell, seconded by Commissioner Smith, to approve the second reading and final adoption of Ordinance No. 24-1008, Erosion and Sediment Control Code Amendment - OCMC 17.47 (GLUA-24-00026, ZC-24-0002, LEG-24-00003). The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

b. First Reading of Ordinance No. 24-1010, Park Place Concept Plan Code Amendments (LEG-24-01)

Pete Walter, Planning Manager, gave a presentation on the proposed code amendments to implement the Park Place Concept Plan. He discussed the process to date and the additions made at the direction of the City Commission at the December 4th meeting. Staff recommended approval.

Commissioner Mitchell asked that pet day cares be moved from permitted uses to conditional uses. There was consensus for staff to remove pet day cares from the permitted uses and not include pet day cares as a conditional use.

Mayor McGriff opened the public hearing.

Harlan Borow, Icon Construction, supported the idea of removing the requirements for alleys and detached garages. It would lead to more efficient and affordable development.

Damon Mabee, resident of Oregon City, asked about the setbacks for decks.

Mr. Walter said the city's zoning code and building code addressed decks encroaching into setbacks and lot coverage limitations. The city's code would still apply in Park Place.

There was discussion about revising the city code concerning setbacks for decks in a future ordinance.

Mayor McGriff closed the public hearing.

Motion by Commissioner Mitchell, seconded by Mayor McGriff, to approve first reading of Ordinance No. 24-1010, Park Place Concept Plan Code Amendments (LEG-24-01) as amended. The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

9. GENERAL BUSINESS

a. Legal Documents Creating the Destination Management/Marketing Organization (DMMO)

James Graham, Economic Development Manager, introduced Matthew Landkamer, consultant with Whereabout Inc., and Rosalie Westenskow, attorney with Nonprofit Law Northwest LLC, who had helped structure the proposed legal framework of the DMMO. He discussed the name change to DMMO—Destination Management Marketing Organization and how the organization needed to present a management and coordination plan six months after the effective date of the MOU to the City Commission. The deadline for the marketing plan to be presented was also six months after the effective date of the MOU. The DMMO would adopt the initial bylaws by the City Commission and would seek approval for any additional amendments.

Motion by Commissioner Smith, seconded by Commissioner Mitchell, to adopt the legal documents creating the Destination Management/Marketing Organization (DMMO). The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

b. Destination Management/Marketing Organization ("DMMO") Structure/Role

Mr. Graham discussed revisions to the DMMO structure/role including the purpose statement, organizational chart, and job description of the Executive Director.

Motion by Commissioner Smith, seconded by Mayor McGriff, to approve the Destination Management/Marketing Organization ("DMMO") Structure/Role. The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, Commissioner Mitchell
NO: None

There was discussion regarding next steps and Board interview questions.

There was consensus for the entire Commission to interview applicants for the Board of Directors and that applicants should attach resumes to their applications.

c. First Reading of Ordinance No. 25-1001, Adding Municipal Code Chapter 09.32 - Fireworks

Shaun Davis, Police Chief, said the Commission had directed staff to draft an ordinance for enforcement of the sale and use of illegal fireworks and to institute a temporary ban of fireworks in the City limits in the event the Fire Chief or Fire Marshall issued an order of extreme fire risk. Additional language had been added to implement a temporary ban on open burning during a declaration of extreme fire risk. The maximum fine would be $300.

Bob La Salle, resident of Oregon City, said there was a forested area behind his home and every year he was concerned when his neighbors let off illegal fireworks. He encouraged passing the ordinance.

Tim Powell, chair of the McLoughlin Neighborhood Association, thought this was a good first step but also wanted the City to go further and pass a full ban on fireworks.

Raymond Rendleman, resident of Oregon City, agreed with Mr. Powell. He credited the ordinance to Commissioner O'Donnell and thanked him for his time as Commissioner.

Tom Geil, resident of Oregon City, liked fireworks but thought they might be a problem inside City limits. However, he didn't know how the police might enforce a ban. He shared a story of a house in Oregon City that burned down because of fireworks.

There was discussion regarding the need for a large public education effort, how they would enforce the ordinance, and potentially passing a full ban in the future.

Motion by Commissioner Mitchell, seconded by Commissioner O'Donnell, to approve the first reading of Ordinance No. 25-1001, Adding Municipal Code Chapter 09.32 - Fireworks. The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

d. Discussion Related to the Expansion of the Commercial Boat Tie-Up at Jon Storm Park

Tony Konkol, City Manager, said there had been discussion about expanding the area commercial vessels could utilize at the Jon Storm dock. There were several licenses, lease agreements, and grant agreements that governed the use of the dock. It currently had 60 feet set aside for commercial uses and requests had been made for vessels larger than 60 feet. He said that the dock was built to accommodate a vessel up to 60 feet and 40 tons. A structural analysis of the dock would be needed to ensure safety before allowing larger vessels to use the dock.

He asked for direction on how to proceed and discussed the options. If the Commission wanted to move forward, he recommended they work with a structural engineering firm to address concerns and review the stability of the dock for larger vessels.

There was discussion regarding a recent engineering analysis of the dock which said the dock could support commercial vessels larger than 60 feet. There was further discussion about potential objections by the Department of State Lands (DSL) and Marine Board to the expansion, maintenance agreements with the Marine Board, DSL lease, liability issues, the City taking the lead on the work, urgency to get this project done, and need for a new survey and analysis of the dock.

Motion by Commissioner Mitchell, seconded by Mayor McGriff, to direct staff to continue discussions with the regulatory agencies and engage with a consultant to perform a structural analysis with a goal of having the dock operational for commercial use by this coming season. The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

e. Discussion of the City Manager's Salary Adjustment and Merit Pay for Performance

Patrick Foiles, Human Resources Director, said the City Manager's performance evaluation was conducted last week in executive session. Based on that review, the City Commission could consider a salary adjustment and/or merit pay.

There was discussion regarding the positive evaluations and doing both a salary adjustment and merit pay.

Motion by Commissioner Mitchell, seconded by Mayor McGriff, to increase the City Manager's base salary by 3% and grant a one-time merit payment of 3%. The motion carried by the following vote:

YES: Commissioner Smith, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
ABSTAIN: Commissioner O'Donnell

f. Second Reading of Ordinance No. 24-1016, Codifying the Ban on Psilocybin Businesses

Motion by Commissioner Marl, seconded by Commissioner Mitchell, to approve the second reading and final adoption of Ordinance No. 24-1016, Codifying the Ban on Psilocybin Businesses. The motion carried by the following vote:

YES: Commissioner Smith, Commissioner O'Donnell, Mayor McGriff, Commissioner Marl, and Commissioner Mitchell
NO: None

10. COMMUNICATIONS

City Manager

a. Annual Comprehensive Financial Report for the Fiscal Year ending June 30, 2024

Matt Zook, Finance Director, said the financial statements for FY 23-24 had been audited and the City was issued an unmodified, or clean, opinion. He would be submitting the financial statements to the Government Finance Officers Association certification of excellence program.

There was discussion regarding remedying a contract that did not follow the regulations in the Oregon Revised Statutes. The contract was re-bid in accordance with the auditor's recommendation.

Commissioners –

Commissioner Mitchell reported on C4 Metro meeting. He said that tolling was being discussed again at the state legislature.

Commissioner Smith reported on the retirement of Gail Yazzolino, the executive director of the End of the Oregon Trail Interpretative Center.

Mayor –

Mayor McGriff said this had been an excellent Commission and she was looking forward to next year. She wanted Commissioner O'Donnell to have the last word in his last meeting.

Commissioner O'Donnell said it had been an honor and a privilege to serve for the past eight years.

11. ADJOURNMENT

Commissioner O'Donnell adjourned the meeting at 9:43 PM.

Respectfully submitted,

_____

Jakob S. Wiley, City Recorder
Date Approved: _____

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

CITY OF OREGON CITY

Staff Report

To:	City Commission	**Agenda Date:**	October 1, 2025
From:	Dayna Webb, Public Works Director Josh Wheeler, Assistant City Engineer		

SUBJECT:
Item 8.a. - Public Hearing and First Reading of Ordinance No. 25-1012, Vacating Unimproved Right-of-Way Located Between 19530 South Central Point Road (Lot 1, *Filbert Orchard,* Recorded Plat No. 1744) and "Tract B," (*Ed's Orchard*, Recorded Plat No. 4503)

STAFF RECOMMENDATION:
Consider the first reading and conduct a public hearing on Ordinance No. 25-1012, Vacating Unimproved Right-of-Way Located Between 19530 South Central Point Road (Lot 1, *Filbert Orchard,* Recorded Plat No. 1744) and "Tract B," (*Ed's Orchard*, Recorded Plat No. 4503).

EXECUTIVE SUMMARY:
On August 19, 2025, Ryan Koch, agent for the property owner, Denise A. Koch, applied for vacation of public right-of-way for property located between 19530 South Central Point Road and "Tract B" of *Ed's Orchard* Subdivision, "Subject Right-of-Way." The proposed vacation has met all City conditions and requirements to vacate the proposed right-of-way.

On September 3, 2025, the City Commission adopted Resolution No. 25-29, initiating the vacation process and scheduled this public hearing for first reading of an Ordinance (No. 25-1012), in accordance with Oregon Revised Statutes (ORS) 271.230. Public notice was provided in accordance with ORS 271.110. No objections were received during the notice period. For these reasons, the Public Works Department supports the proposed vacation and approval of this ordinance.

BACKGROUND:
On August 19, 2025, Ryan Koch, agent for the property owner, Denise A. Koch, applied to vacate an unimproved public right-of-way (ROW) located between 19530 South Central Point Road (Lot 1 of *Filbert Orchard* Subdivision) and "Tract B" of *Ed's Orchard* Subdivision, "Subject Right-of-Way." The Subject Right-of-Way was created via plat, *Ed's Orchard* (Plat No.4503), to allow proper alignment with the existing portion of Skellernger Way, created with the development of the *Hazel Grove 4* recorded plat. A legal description and map of the Subject Right-of-Way is attached to this staff report.

As outlined in Article 12 of the Declaration of Covenants, Conditions, and Restrictions (CC&Rs) for *the Ed Orchard* recorded plat, if the unimproved Subject Right-of-Way, located between 19530 South Central Point Road and "Tract B" of the *Ed Orchard* Subdivision is vacated, the resulting land will form a contiguous parcel. Therefore, upon approval of the

proposed unimproved Right-of-Way vacation, it is anticipated that both “Tract B” and the Subject Right-of-Way will be deeded to the property at 19530 South Central Point Road. The County surveyors office will make the final determination.

The applicant submitted a complete vacation request, in accordance with ORS 271.80, including a neighborhood petition signed by the abutting property owner of "Tract B."

Staff reviewed the application and history of the property proposed for vacation, based on the following four criteria:

1. There is no present or future public need for the street, alley, or easement.
2. The vacation serves the public interest.
3. The vacation will not impact the adjacent properties
4. Adjacent property owners’ consent, if appropriate.

The Subject Right-of-Way is currently unimproved and provides no present or foreseeable benefit to surrounding roadways, pedestrian travel, or utility infrastructure. During the development of the *Ed’s Orchard* Subdivision, all utilities within the ROW were abandoned in place, and future utility routes were planned around the area. The only utility remaining within the proposed vacation area is a 6-inch abandoned water main, formerly owned and maintained by the Clackamas River Water District. Adjacent properties won't be negatively impacted by the vacation, as the vacation will only consolidate, and create a contiguous parcel of the Subject Right-of-Way and "Tract B" into the property owner's property at 19530 South Central Point Road. For these reasons and the reasons specified by the applicant for the request to vacate, the Right-of-Way vacation is in the best public interest.

As part of the vacation process, Oregon City Public Works notified local service providers, including Clackamas River Water District, Comcast, Northwest Natural, Portland General Electric, and Lumen/CenturyLink, as a courtesy. No objections were raised.

The application meets all statutory requirements and city conditions for right-of-way vacation. Based on these findings, the City Commission adopted Resolution No. 25-29, directing the City to issue the required public notice for ordinance proceedings under ORS 271. Notice of the proposed vacation and public hearing was published in *The Oregonian* on September 8 through September 22, 2025. A placard sign was posted in the vicinity of the proposed vacation property within five days of the newspaper publication. No public comments were received during the notification period.

In this case, the City has no current or future need for this unimproved Right-of-Way, the proposed vacation will not adversely impact adjacent properties, and it is in the public’s best interest to approve the proposed vacations of rights-of-way. Therefore, all conditions for vacation have been met and staff supports approval of this vacation.

OPTIONS:

1. Approve Public Hearing and First Reading of Ordinance No. 25-1012, Vacating Unimproved Right-of-Way Located Between 19530 South Central Point Road (Lot 1, *Filbert*

Orchard, Recorded Plat No. 1744) and "Tract B," (*Ed's Orchard*, Recorded Plat No. 4503).
2. Approve Public Hearing and First Reading of Ordinance No. 25-1012, Vacating Unimproved Right-of-Way Located Between 19530 South Central Point Road (Lot 1, *Filbert Orchard,* Recorded Plat No. 1744) and "Tract B," (*Ed's Orchard*, Recorded Plat No. 4503) with Amendments.
3. Deny Public Hearing and First Reading of Ordinance No. 25-1012, Vacating Unimproved Right-of-Way Located Between 19530 South Central Point Road (Lot 1, *Filbert Orchard,* Recorded Plat No. 1744) and "Tract B," (*Ed's Orchard*, Recorded Plat No. 4503) and provide further direction.

BUDGET IMPACT:

Amount	$0
Fiscal Year(s):	N/A
Funding Source(s):	N/A

ORDINANCE NO. 25-1012

AN ORDINANCE OF THE CITY OF OREGON CITY VACATING UNIMPROVED PUBLIC RIGHT-OF-WAY LOCATED BETWEEN 19530 SOUTH CENTRAL POINT ROAD (LOT 1, *FILBERT ORCHARD* RECORDED PLAT NO. 1744) AND "TRACT B," (*ED'S ORCHARD RECORDED PLAT NO. 4503)*

WHEREAS, unimproved public right-of-way (ROW) currently exists on property located between 19530 South Central Point Road (Lot 1, *Filbert Orchard*, Recorded Plat No. 1744) and "Tract B" of *Ed's Orchard* Subdivision (Recorded Plat No. 4503) (Subject Right-of-Way); and

WHEREAS, on August 19, 2025, Ryan Koch, agent for the property owner, Denise A. Koch, applied to vacate the Subject Right-of-Way; and

WHEREAS, on September 3, 2025, the Oregon City Commission adopted Resolution No. 25-29, pursuant to Oregon Revised Statutes (ORS) 271.230, initiating the process and proceedings to vacate the Subject Right-of-Way and set a public hearing for October 1, 2025; and

WHEREAS, in accordance with ORS 271.110, legal notice of the proposed public ROW vacation and public hearing was published in *The Oregonian* newspaper on September 8, 2025, through September 22, 2025 to solicit public comment; and

WHEREAS, no objections or comments were received during the public notice; and

WHEREAS, the Commission found no present or foreseeable benefit to the surrounding roadways, pedestrian travel, or utility structure for the Subject Right-of-Way; the ROW vacation serves the public's best interest; the vacation will not adversely impact the adjacent property owners; and there were no objections from the public regarding said vacation.

NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:

Section 1. The Subject Right-of-Way, located between 19530 South Central Point Road (Lot 1, *Filbert Orchard*, Recorded Plat No. 1744) and "Tract B" of *Ed's Orchard* Subdivision (Recorded Plat No. 4503), more particularly described in **Exhibit A** and depicted in **Exhibit B**, both attached to this Ordinance and incorporated herein by reference, is hereby vacated.

Section 2. This vacation shall not affect any public utility easements currently existing within the vacated right-of-way unless specifically released or relocated in accordance with applicable law and future land use approvals.

Section 3. This ordinance shall take effect 30 days from the date of adoption.

Read for the first time at a regular meeting of the Oregon City Commission held on the 1st day of October, 2025, and the City Commission enacted the foregoing ordinance on the 15th day of October, 2025.

DENYSE C. MCGRIFF
Mayor

Attested to this 15th day of October 2025,

Jakob Wiley, City Recorder

Approved as to legal sufficiency:

City Attorney

AKS ENGINEERING & FORESTRY
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #12615

EXHIBIT A

Right-of-Way Vacation

A portion of right-of-way located in the Southeast One-Quarter of Section 12, Township 3 South, Range 2 East, Willamette Meridian, City of Oregon City, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the most southerly corner of Lot 1 of the plat "Filbert Orchard", Plat No. 1744, Clackamas County Plat Records, also being on the northeasterly right-of-way line of Skellenger Way (28.00 feet from centerline); thence along said northeasterly right-of-way line (variable width from centerline), North 46°03'35" West 171.00 feet to the most southerly corner of Document Number 2024-008065, Clackamas County Deed Records, and the Point of Beginning; thence along the southwesterly extension of the southeasterly line of said deed, South 43°53'43" West 1.15 feet to a line which is parallel with and 27.00 feet northeasterly of, when measured at right angles to, the centerline of Skellenger Way; thence along said parallel line on a non-tangent curve to the left (Radial Bearing of South 41°10'34" West) with a Radius of 127.00 feet, a Delta of 52°09'00", a Length of 115.59 feet, and a Chord of North 74°53'56" West 111.64 feet to the southeasterly corner of Tract B of the plat "Ed's Orchard", Plat No. 4503, Clackamas County Plat Records; thence along the northeasterly line of said Tract B, North 46°03'35" West 82.91 feet to the southeasterly right-of-way line of Central Point Road (35.50 feet from centerline); thence along said southeasterly right-of-way line, North 43°56'16" East 56.07 feet to the southwesterly line of Lot 1 of said "Filbert Orchard"; thence along said southwesterly line on a non-tangent curve to the left (Radial Bearing of North 70°40'52" East) with a Radius of 10.00 feet, a Delta of 26°44'27", a Length of 4.67 feet, and a Chord of South 32°41'21" East 4.62 feet; thence continuing along said southwesterly line, South 46°03'35" East 176.21 feet to the Point of Beginning.

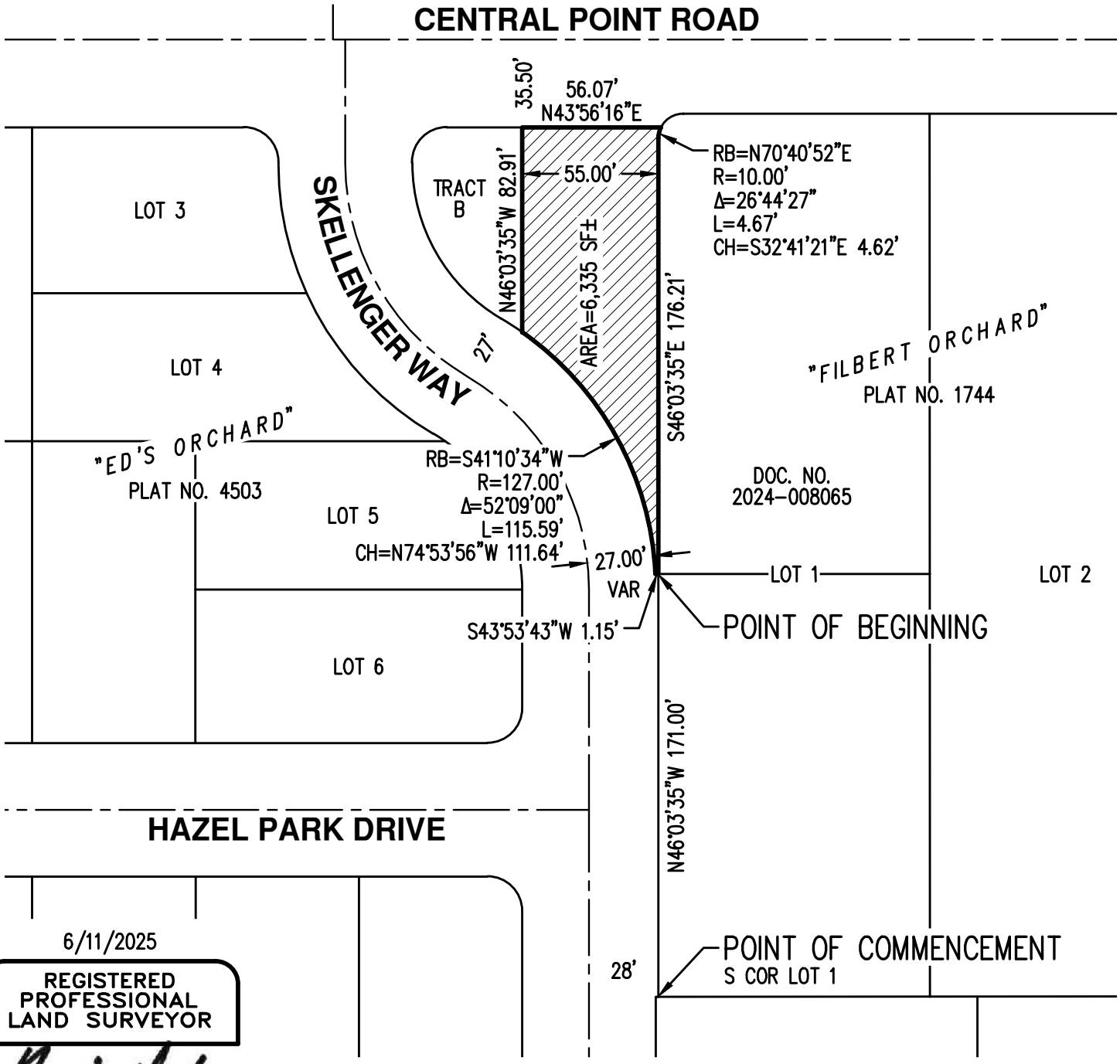
The above described tract of land contains 6,335 square feet, more or less.

The Basis of Bearings for this description are based on said "Ed's Orchard".

6/11/2025

EXHIBIT B

A PORTION OF RIGHT-OF-WAY LOCATED IN THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON



6/11/2025

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/26

PREPARED FOR

RYAN & DENISE KOCH
14339 S STONERIDGE DRIVE
OREGON CITY, OR 97045

SCALE: 1"= 60 FEET

60 0 12 30 60

N

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM

RIGHT-OF-WAY VACATION

DRWN: WCB	CHKD: NSW
AKS JOB: 12615	EXHIBIT B

DWG: 12615 20250611 EXB | EXB1

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

CITY OF OREGON CITY

Staff Report

To:	City Commission	**Agenda Date:**	October 1, 2025
From:	Dayna Webb, Public Works Director Tony Konkol, City Manager		

SUBJECT:
Item 9.a. - Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek

STAFF RECOMMENDATION:
Staff seeks Commission direction on whether to maintain the exemption effective November 22, 2024, or extend it back to the requested acquisition date of the property.

EXECUTIVE SUMMARY:
The Blue at Abernethy Creek, LLC requested an exemption from Oregon City's stormwater drainage service fees for its properties along Abernethy Road. After review, the Public Works Director approved the exemption effective November 22, 2024, the date the request was submitted, following certification that stormwater infrastructure discharges directly to Abernethy Creek. The property owner has since asked the City to reconsider and apply the exemption retroactively to June 6, 2023, when they acquired the property.

BACKGROUND:
At the September 17, 2025 City Commission meeting, the Commission provided staff with follow-up items to look into and return to City Commission. The attached Follow-up Questions Memo provides the staff responses to Commission questions.

On November 22, 2024, the City received a formal request from The Blue at Abernethy Creek, LLC for an exemption from Oregon City's monthly stormwater fees for multiple properties along Abernethy Road, as outlined in Oregon City Municipal Code 13.16.100.

In response, staff reviewed past exemption requests for comparable sites and consulted with the City Attorney. Staff sent a response back to the property owner on January 3, 2025. The response stated "The non-conforming status of the development and uses occurring on these properties suggests that the stormwater conveyance system may also pre-date compliance with current stormwater standards. Given these thresholds, offering only Google imagery noting the approximate location of storm drains is insufficient." To move forward, the property owner would need to submit engineer-stamped drawings documenting the existing stormwater conveyance system, topography, and flow calculations to confirm that no site-generated stormwater discharged into the public system.

On June 3, 2025, the City received a letter from Superior Excavation, dated May 30, 2025, certifying that all onsite stormwater infrastructure drains directly to Abernethy Creek. Based

on this documentation, the City issued a letter on July 11, 2025, granting the exemption effective as of the original request date, November 22, 2024, and requesting payment of all outstanding fees. On July 15, 2025, a representative of The Blue at Abernethy Creek responded, accepting the exemption as applied from November 22, 2024, but requesting reconsideration of charges assessed between their acquisition of the property on June 6, 2023, and the exemption application date.

Before the exemption request was submitted, City Engineering and Utility Customer Service staff met with the property owner on multiple occasions between April to October 2024, to establish a mutually agreed upon framework for separating stormwater fees into four billing accounts for the property, as shown on the Stormwater Fee Map and Fee Summary. City staff dedicated considerable time in 2024 to work with the owner on structuring these fees. However, shortly after the billing separation was finalized and implemented, the City received the exemption request. Staff applied the exemption back to the date of the request, November 22, 2024.

Following is a summary of the Stormwater Fees for the 4 accounts. More details are provided in the attached Stormwater Fee Summary:

- Area A: If the additional exemption is granted the City will not owe any money to The Blue at Abernethy Creek. If the additional exemption is not granted The Blue at Abernethy Creek will owe the City $1,243.46.
- Area B: If the additional exemption is not granted The Blue at Abernethy Creek will owe the City $21,847.44. If the additional exemption is granted the City will owe The Blue at Abernethy Creek $23,575.57.
- Area C: If the additional exemption is granted the City will owe Classic Collision $3,490.11. If the additional exemption is not granted the City will owe Classic Collision $2,765.72.
- Area D: If the additional exemption is not granted the City will owe Classic Collision $13,104.66. If the additional exemption is granted the City will owe Classic Collision $17,306.84.

Since the property owner does not consider the issued exemption sufficient, staff is seeking feedback from the City Commission on whether fees should instead be exempted retroactively to June 6, 2023, the date the property was acquired.

OPTIONS:

1. Approve Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek.
2. Approve Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek with Amendments.
3. Deny Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek and provide further direction.

BUDGET IMPACT:

Amount $

Fiscal Year(s):

Funding Source(s):

OREGON CITY

Public Works

13895 Fir Street | Oregon City OR 97045
Ph (971) 204-4601

MEMORANDUM

To: City Commission
From: Josh Wheeler, PE – Assistant City Engineer
Dayna Webb, PE – Public Works Director
Matt Zook – Finance Director
Subject: The Blue at Abernethy Creek Monthly Stormwater Fee Exemption Follow-up Questions

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Staff have reviewed policies, meetings, and available historical documents related to the property at 1000 Abernethy Road and offer the following related to questions posed at the City Commission meeting of September 17, 2025:

Utility Billing

The City Commission asked for information on the Utility Billing Policies and Procedures around billing disputes (under and over billings).

Historically, the Utility Billing Division of the Finance Department has not charged properties when they find that they had been underbilling a property. When an error is found, the corrected billing starts at that time and does not seek retroactive payment.

It should be noted that sometimes a utility bill is estimated because the water meter is inaccessible. In those cases, an actual water meter reading may increase the next utility bill with actual charges. This is not seen as a lookback or underbilling, but is considered more of a correction to an estimate.

Utility Billing has an internal policy which was last updated on February 28, 2022. The section of the policy that relates to this question is listed below:

In the event of a dispute between the City and the customer as to the amount of a bill, the undisputed amount is payable by the due date, the remaining portion of the bill is due and payable upon completion of dispute, if not sooner. It is the customer's responsibility to notify the Utility of any potential billing disputes prior to withholding payment. If amounts billed for utility services are different than the City's approved rates, or if the City fails to bill the customer for services, billing adjustments shall be calculated by the City. When an under billing or over billing occurs, the Utility shall provide the customer with notice of the circumstances, period of time and amount of the adjustment. If the date of error can be established, the under charge or over charge shall be computed back to such date. If no

date can be established, the Utility shall refund or re-bill for six months of usage. An adjustment shall be made for the entire period of the over billings up to six (6) months preceding the discovery of the billing error. If the customer was under billed, the City may bill the customer for the under billed amount. The back billing shall not exceed a period of six (6) months preceding the discovery unless such billing is a result of meter tampering, bypass, unauthorized use of services. When a customer is required to pay for an under billing, the customer may enter into a payment arrangement at the Utility's discretion.

The City Commission asked for information on examples of under billing that have occurred.

When an under billing occurs, it is corrected at the time it is discovered. Utility Customer Service catches the under billing within a couple of months of the occurrence. For example, if a customer is connected to City sewer and Utility Billing is not notified, billing occurs at the time of discovery. Generally, it only goes on for one or two months before Utility Customer Service is notified by Engineering. Another example is if Utility Customer Service is not notified of a Certificate of Occupancy on new multi-family construction that completed in phases. In this scenario, billing occurs upon discovery.

Case Study – Living Hope Church

The City Commission requested that we watch the Living Hope Church meeting video and provide a summary of why the 30 months look back was used.

On January 5, 2022, Director of Public Works, John Lewis, presented the topic to the City Commission. Mr. Lewis presented an overcharge had existed on the property since 2008 with respect to the stormwater fee on the utility bill of the property referred to as Living Hope Church. On July 26, 2021, the property owner of Living Hope Church presented a request to adjust their stormwater fee calculation. Staff agreed with the need for adjustment and made the adjustment going forward. The next question that was requested was for a lookback reimbursement. At the time (and in present day), utility billing had a policy which states all lookbacks are for 6 months. The property owner appreciated the adjustment and the 6-month lookback but requested the lookback go to 2008.

In reviewing the lookback request, Mr. Lewis looked at several scenarios. The scenario which was before the City Commission was to provide something more than a 30-month lookback which Mr. Lewis had already approved. The property owner had inquired with the City in 2019 about being charged any stormwater fee claiming that all their stormwater was onsite and did not contribute to the public system. This claim was denied in 2019, but in 2022 was used as a possible lookback date. Mr. Lewis provided the 30-month lookback reimbursement to the 2019 date as that was the first date the Church inquired about the stormwater fee concern. Mr. Lewis presented before City Commission at the property owner's request to go further than 30 months and go back to 2008. A lookback reimbursement from 2019 to 2008 was asked for by the property owner to the City

Commission. City Attorney Kabeisman stated that contractual law engagements have a 6-year statute of limitations. There was a question whether a utility bill is a contract. The City Commission ended up voting 4-0-1 (abstain) to reimburse the lookback to 2008.

History of 1000 Abernethy Road Property

The City Commission requested that we identify when the County Shops were built.

Staff looked at several records with GIS staff and could not make a definitive determination of when the County started using the property or became owner of the property. We found one land transaction where the County sold the property to the current owner. The only other resource that provided some insight was historical aerial photography. In the early 1970s, the majority of buildings that exist today were constructed. Prior to 1970, two of the buildings on the westerly portion of the property existed. In speaking with County staff, they believe the site was occupied by Clackamas County since the early 1900s. They expanded the site in the 1970s.

Abernethy Properties Stormwater Fee Summary

Stopped billing Storm on all accounts as of 5/31/25

				Area A The Blue at Abernethy Creek (Owner)	Area B The Blue at Abernethy Creek (Owner)	Area C Classic Collision (Tenant)	Area D Classic Collision (Tenant)
				1010 Abernethy Rd *Acct #07-664655-00* *52.44 ERU*	1030 Abernethy Rd *Acct #07-663300-06* *71.27 ERU*	1080.5 Abernethy Rd *Acct #07-663611-00* *152.74 ERU*	1090 Abernethy Rd *Acct #07-663301-03* *30.55 ERU*
Bill Date	Rate Code	Service Start Date	Service End Date	Total Dollars	Total Dollars	Total Dollars	Total Dollars
06/30/2025	Storm - per ERU	04/30/2025	05/31/2025	$ 774.54	$ 1,052.66	$ 2,255.97	$ 451.22
05/31/2025	Storm - per ERU	03/31/2025	04/30/2025	774.54	1,052.66	2,255.97	451.22
04/30/2025	Storm - per ERU	02/28/2025	03/31/2025	774.54	1,052.66	2,255.97	451.22
03/31/2025	Storm - per ERU	01/31/2025	02/28/2025	774.54	1,052.66	2,255.97	451.22
02/28/2025	Storm - per ERU	12/31/2024	01/31/2025	774.54	1,052.66	2,255.97	451.22
01/31/2025	Storm - per ERU	11/30/2024	12/31/2024	717.38	974.97	2,089.48	417.92
12/31/2024	Storm - per ERU	11/22/2024	11/30/2024	191.30	259.99	557.19	111.45
		Approved Exemption back to 11/22/24		**$ 4,781.38**	**$ 6,498.26**	**$ 13,926.52**	**$ 2,785.47**
12/31/2024	Storm - per ERU	10/31/2024	11/22/2024	$ 526.08	$ 714.98	$ 1,532.29	$ 306.47
11/30/2024	Storm - per ERU	09/30/2024	10/31/2024	717.38	974.97	2,089.48	417.92
10/31/2024	Storm - per ERU	08/31/2024	09/30/2024	-	2,881.97	580.41	-
09/30/2024	Storm - per ERU	07/31/2024	08/31/2024	-	3,378.96	-	-
08/31/2024	Storm - per ERU	06/30/2024	07/31/2024	-	3,378.96	-	-
07/31/2024	Storm - per ERU	05/31/2024	06/30/2024	-	3,378.96	-	-
06/30/2024	Storm - per ERU	04/30/2024	05/31/2024	-	3,378.96	-	-
05/31/2024	Storm - per ERU	03/31/2024	04/30/2024	-	3,378.96	-	-
04/30/2024	Storm - per ERU	02/29/2024	03/31/2024	-	3,378.96	-	-
03/31/2024	Storm - per ERU	01/31/2024	02/29/2024	-	3,378.96	-	-
02/29/2024	Storm - per ERU	12/31/2023	01/31/2024	-	3,378.96	-	-
01/31/2024	Storm - per ERU	11/30/2023	12/31/2023	-	3,127.02	-	-
12/31/2023	Storm - per ERU	10/31/2023	11/30/2023	-	3,127.02	-	-
11/30/2023	Storm - per ERU	09/30/2023	10/31/2023	-	3,127.02	-	-
10/31/2023	Storm - per ERU	08/31/2023	09/30/2023	-	3,127.02	-	-
09/30/2023	Storm - per ERU	08/18/2023	08/31/2023	-	1,311.33	-	-
		Additional Exemption Requested (prior to 11/22/24)		**$ 1,243.46**	**$ 45,423.01**	**$ 4,202.18**	**$ 724.39**
			Account Balance as of 8/8/25	$ 6,024.84	$ 28,345.70	$ 821.86	$ 19.75
			Total storm credit with full exemption request	6,024.84	51,921.27	18,128.70	3,509.86
			Refund to customer	$ -	$ (23,575.57)	$ (17,306.84)	$ (3,490.11)
			Account Balance as of 8/8/25	$ 6,024.84	$ 28,345.70	$ 821.86	$ 19.75
			Storm credit exemption already approved	4,781.38	6,498.26	13,926.52	2,785.47
			Remaining account balance (refund to customer)	$ 1,243.46	$ 21,847.44	$ (13,104.66)	$ (2,765.72)
			Pro rated per day	*$ 23.91*	*$ 32.50*	*$ 69.65*	*$ 13.93*
			From 11/1 - 11/22	*$ 526.08*	*$ 714.98*	*$ 1,532.29*	*$ 306.47*
			From 11/22 - 11/30	*191.30*	*259.99*	*557.19*	*111.45*
				$ 717.38	*$ 974.97*	*$ 2,089.48*	*$ 417.92*

Summary:

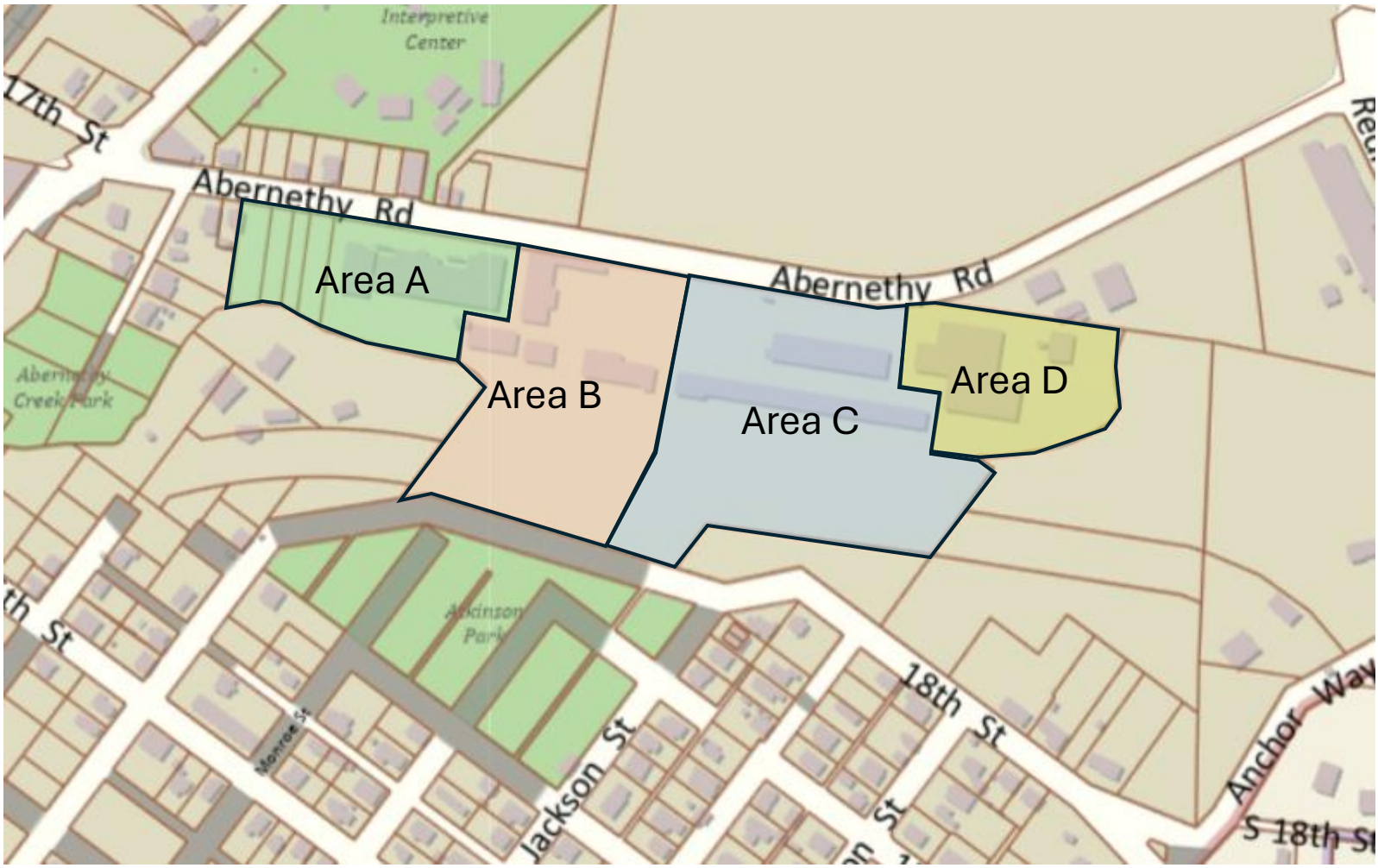
Area A: If the additional exemption is granted the City will not owe any money to The Blue at Abernethy Creek, if the additional exemption is not granted The Blue at Abernethy Creek will owe the City $1,243.46.

Area B: If the additional exemption is not granted The Blue at Abernethy Creek will owe the City $21,847.44, if the additional exemption is granted the City will owe The Blue at Abernethy Creek $23,575.57.

Area C: If the additional exemption is granted the City will owe Classic Collision $3,490.11 if the additional exemption is not granted the City will owe Classic Collision $2,765.72.

Area D: If the additional exemption is not granted the City will owe Classic Collision $13,104.66 if the additional exemption is granted the City will owe Classic Collision $17,306.84.

Abernethy Properties Stormwater Fee Map



Area A = 52.44 ERU
Area B = 71.27 ERU
Area C = 152.74 ERU
Area D = 30.55 ERU

Email Letter
John Miller, Manager
PO Box 230698
Portland, Oregon 97281
P. 503.969.3640
E. johnm@greenwayig.com

DELIVERY BY EMAIL
dwebb@orcity.org

November 22, 2024

Dayna Webb
Public Works Director
Oregon City Public Works Department
13895 Fir Street
Oregon City, OR 97045
Phone: 971-204-4633
Email: dwebb@orcity.org

Subject: Request for Stormwater Fee Exemption under OCMC 13.16.100

I am writing on behalf of The Blue at Abernethy Creek, LLC (the "**Company**"), to formally request an exemption from Oregon City's stormwater drainage service fees for our properties, generally located at 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1102, and 1110 Abernethy Rd., Oregon City, Oregon (the "**Properties**"). This request is based on specific exemption provisions outlined in Oregon City Municipal Code (OCMC) Sections 13.16.100.

Background:
The Company recently purchased these Properties in June of 2023 from Clackamas County. The zoning falls under the Type Non-Conforming Use Designation as of November 3, 2023, where the legally established use was M1 - Light Industrial. Combined, the properties consist of approximately 718,000 square feet, of which 437,000 square feet is impervious surface (e.g., paving, rooftops). All stormwater generated on-site is managed through private conveyance facilities that discharge directly into Abernethy Creek (See attached "**Exhibit A**").

Basis for Exemption:

1. **Exemption from Stormwater Fees under OCMC 13.16.100**: OCMC 13.16.100 provides an exemption for properties where stormwater does not enter the city's public storm drainage system. Specifically, the code states:

"*Any other person seeking an exemption or reduction in the storm drainage fee... may do so pursuant to a demonstration to the city manager or the manager's designee that the public storm drain service does not receive stormwater from property used or occupied by that person. Such demonstration shall include evidence of legal disposal of stormwater to a private retention system, private storm drain system, public water body, or other receiving facility.*"

The Properties qualify for this exemption, as their stormwater is managed on-site and discharged directly into Abernethy Creek, a public water body. This ensures that no stormwater from these Properties enters or utilizes the city's storm drainage infrastructure.

Request for Individual Property Evaluation:
We recognize that stormwater management may vary slightly between individual addresses across the Properties. We respectfully request that the exemption application be evaluated on an address-by-address basis, allowing for exemptions to be granted for those properties that meet the criteria outlined in OCMC 13.16.100, even if an exemption is not applicable to a specific address.

This approach ensures that each property is assessed fairly and independently, in accordance with the Code's intent to exempt properties where the City's stormwater system is not impacted.

Additional Considerations:
While we understand the City may have concerns about potential impacts to City infrastructure in extreme or hypothetical scenarios, such as flooding, or minor interactions, such as stormwater passing through a culvert or simple public facility downstream, it is important to emphasize that government-imposed fees must be based on actual, measurable impacts. The recent Supreme Court decision in ***Sheetz v. County of El Dorado*** reaffirmed that such fees must be proportional to direct impacts and cannot rely on speculative or minimal scenarios.

In this case, even if some stormwater from the Properties were to flow through minor City infrastructure downstream, such as a culvert, the impact would be negligible in the grand scheme of the City's stormwater management. These minimal interactions do not rise to the level of a direct or meaningful burden on the City's stormwater system, particularly given that the majority of stormwater from the Properties is managed independently on-site and discharged directly into Abernethy Creek.

We trust that this application will be evaluated in alignment with these principles, ensuring that any fees or exemptions are grounded in actual, proportional impacts rather than remote or low-impact contingencies.

We respectfully request that the City consider this application and grant exemptions for those properties that meet the criteria under OCMC 13.16.100. Please let us know if further information is necessary to facilitate your review. I am available at your convenience to discuss the details of this request.

Thank you for considering this request. We look forward to your response.

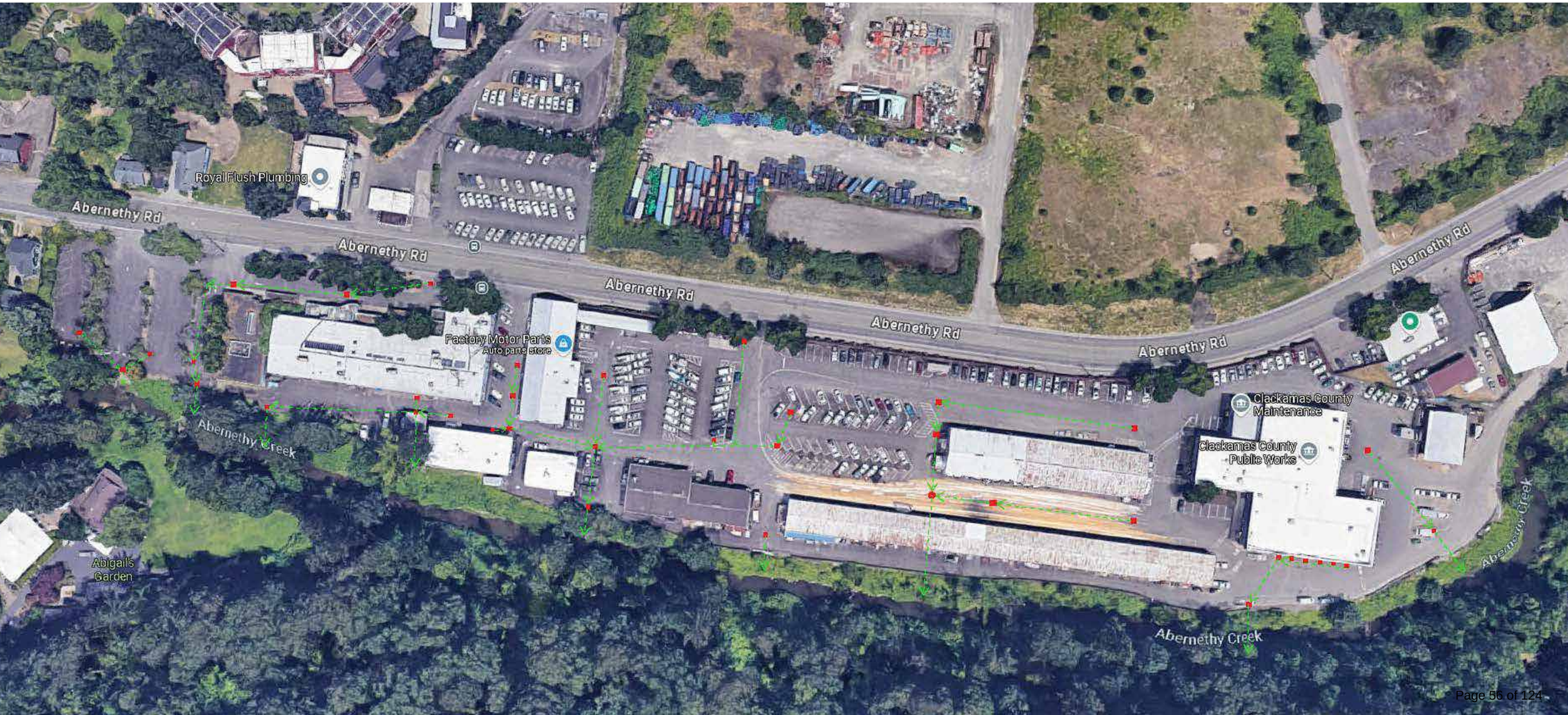
Sincerely,

John Miller, Manager

Cc: Josh Wheeler, Oregon City Public Works, Assistant City Engineer
(jwheeler@orcity.org)
Dan Fowler, The Blue at Abernethy Creek, LLC
(danf@fandfstructures.com)

Catch Basin

Storm Line



Catch Basin

Storm Line

PO BOX 4340
Salem, OR 97302
CCB# 203766
Loscar@SuperiorExcavationInc.com

Superior Excavation, Inc.
PO Box 4340
Salem, OR 97302
Phone: (503) 999-8335
Email: Loscar@superiorexcavationinc.com

Date: May 30, 2025
To: Whom It May Concern
Subject: Certification of Drainage Line Field Observations and Graphics – The Blue at Abernethy Creek

I am writing to certify that the drainage graphics provided for The Blue at Abernethy Creek (covering 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070 , 1080, 1090 and 1102 Abernethy Rd., Oregon City, Oregon 97045) which are attached hereto, accurately represent the stormwater conveyance to Abernethy Creek as observed and verified in the field.

Our field team conducted a detailed site walk and assessment on November 15, 2024, during which we identified and mapped all catch basins and connected private storm lines. Flow directions were confirmed by checking catch basin invert and outfall elevations on-site by visual inspection and functional tracing of infrastructure routing to known outfalls terminating at Abernethy Creek.

The submitted graphics reflect this field verification and are a true and accurate depiction of existing drainage features and flow direction as they exist on the ground. No connections to the City's municipal stormwater system exist from the aforementioned property locations.

If further clarification is required, I am available to discuss our findings.

Sincerely,
Daniel Loscar
President
Superior Excavation, Inc.

Google Maps
Royal Flush Plumbing
Abernethy Rd
Abernethy Rd
Abernethy Rd
Abernethy Rd
Abernethy Rd
Abernethy Rd
Factory Motor Parts
Auto parts store
Clackamas County Maintenance
Clackamas County Public Works
Abernethy Creek
Abernethy Creek
Abernethy Creek
Abigail's Garden
Google
Imagery ©2024 Google, Imagery ©2024 Airbus, Maxar Technologies, Metro, Portland Oregon, Map data ©2024 100 ft

Abernethy Rd
Abernethy Rd
Abernethy Rd
Abernethy Rd
Abernethy Rd
Abernethy Rd
1110
1090
Clackamas County Maintenance
Clackamas County Transportation
Abernethy Creek
Google

OREGON CITY

Public Works

13895 Fir Street | Oregon City OR 97045
Ph (971) 204-4601

July 11, 2025

John Miller, Manager
The Blue at Abernethy Creek, LLC
PO Box 230698
Portland, OR 97281

RE: Stormwater Fee Exemption Request
1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1102, and 1110 Abernethy Road, Oregon City, Oregon

Dear Mr. Miller,

In response to your initial request dated November 22, 2024 and your subsequent submittal on June 3, 2025, we have determined that the subject property is currently exempt from the Stormwater Utility Fee based on Oregon City Municipal Code 13.16.100 at this time.

The exemption will be applied effective as of the date of the initial request, November 22, 2024. Any outstanding fees incurred prior to this date shall remain due and payable.

The City reserves the right to revise assessments and exemptions if the municipal code or calculation methods are amended or newly adopted by the City Commission, and such changes are subsequently enforced.

Sincerely,

Dayna Webb

Dayna Webb, PE
Public Works Director

Jakob Wiley

From:	James Nicita <james.nicita@gmail.com>
Sent:	Tuesday, September 16, 2025 7:18 PM
To:	Denyse McGriff; Rocky Smith, Jr.; Adam Marl; Mike Mitchell; Scott Wilson
Cc:	Tony Konkol; Dayna Webb; Jakob Wiley; City Recorder Team; Carrie Richter; Dan Fowler
Subject:	Oregon City Commission September 17, 2025 Agenda Item 9a Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek
Attachments:	Ex. A. 1989-06-23 City Commission Minutes Final Passage Ord 89-1010.PDF; Ex. B. 1993-12-01 and 12-15 City Commission Minutes Storm Water Utility Fee Code Amendment.PDF; Ex. C Roseburg School Dist v City of Roseburg 316 Or 374 851 P2d 595 Or 1993.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.

I respectfully submit these thoughts in reference to the above-referenced agenda item. I do so because I have a direct stake in its outcome and whatever precedent it sets. My house is in a geologic bowl, does not discharge to the City's storm drain system, and is potentially eligible for the identical storm water utility fee exemption.

I have reviewed the code, and I believe it has several flaws. It needs to be corrected. My thoughts are directed to those issues, as well as to this particular proceeding.

A. OCMC 13.16.100 Does Not Grant an Applicant a Right to Reconsideration, or Appeal to the City Commission

This is perhaps the most profound flaw of the code provision. Appeal rights are available when the code or a statute expressly provides for them. For example, in land use hearings the right to appeal a final decision of the Planning Commission to the City Commission, if the proper fee is paid.

The current proceeding, however it is framed, is an appeal by the applicant of an adverse decision of the city manager's designee to deny his request to extend the exemption he was granted form the date of his application to the date he first acquired the property. There is no such express entitlement given to applicants in OCMC 13.16.

The legislative history of the code makes clear that the situation is not simply the code being "silent" on the question of an appeal right. In fact, the code used to have such an express appeal right, but the City Commission expressly and *intentionally removed* that appeal right.

Here is the link to OCMC 13.16:

https://library.municode.com/or/oregon_city/codes/municipal_code?nodeId=TIT13PUSE_CH13.16STDRSECH

As you can see by the parenthetical reference below each paragraph, current OCMC chapter 13.16 was formerly numbered Sections 8-9-1, etc..

Attached as Ex. A are the minutes of the June 23, 1989 City Commission meeting at which the City Commission gave final approval to the original adoption of the current storm water utility fee in Ordinance 89-

1010. On p. 169, I have asterisked Section 8-9-11, which clearly and explicitly granted citizens the right to an appeal to the City Commission.

Attached as Ex. B are the minutes of the December 1, 1993 City Commission meeting at which the City Commission amended the storm water utility fee code, under the current numbering, through Ordinance 93-1025. At pp. 377-378, one can see that the storm water utility fee code no longer grants the right of an appeal to the City Commission.

I will note that Mr. Fowler voted for both versions of the code, first as a city commissioner and then as mayor. He certainly has had notice that the code does not grant the right of an appeal to the City Commission.

B. OCMC 13.16 is Silent on the Date an Exemption Would Accrue

This is the nub of the current proceeding. The lack of specificity in the code as to when the exemption accrues is another serious flaw.

Obviously to me the precedent should be that the exemption accrues at the time of purchase. Under such an interpretation the City owes me a refund in the storm water utility fees I have paid going back to 2007, when I purchased my home. (In fact, I would say that prior owners could claim an exemption and refund going back to the time of the 1989 adoption of the ordinance.)

I will leave it to the City Commission to decide whether it wants to adopt such a precedent. There are probably numerous property owners in Oregon City who would be due an exemption refund going back to the adoption of the storm water utility fee in 1989.

This brings up an ancillary flaw in the code: it does not require notice to property owners of their right to the exemption. It would be a simple matter to add a few words to the back of utility statements notifying citizens of the right to an exemption.

C. OCMC 13.16.100 Appears to Conflict with State Law

The origin of the code exemption in 1993 appears to be a 1993 Oregon Supreme Court case (Ex. C) that discussed individuals not being charged a municipal service fee if they do not in fact use that service.

OCMC 13.16.100 appears to state that if an appellant can demonstrate a legal disposal of storm water through a private conveyance system to a “public water body,” then they are not using Oregon City’s municipal storm water system.

However, the implementing rule for Oregon Statewide Planning Goal 11

https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3061

provides the following definition of a local storm drain system:

660-011-0005
Definitions
(...)
(7) "Public Facility Systems": Public facility systems are those facilities of a particular type that combine to provide water, sewer or transportation services. For purposes of this division, public facility systems are limited to the following:
(...)
(c) Storm sewer:

(A) Major drainageways (major trunk lines, ***streams,*** *ditches, pump stations and retention basins);*

(B) Outfall locations.

(Emphasis added).

Thus it would appear that a direct discharge into Abernethy Creek (or any other stream in Oregon City) is a use of the Oregon City storm water system that is or should be subject to the utility fee.

There is a fairness issue here, because exempting such properties increases the financial burden on other taxpayers for maintenance and legal compliance of the city-wide storm water system that includes Abernethy Creek.

D. The Applicant has not Demonstrated "Legal" Storm Water Disposal

OCMC 13.16.100 requires the demonstration of "legal" storm water disposal. At least in the record before the City Commission, there is no demonstration by the applicant of compliance with water quality laws and regulations. The evidence does show an aerial photograph of a very crowded parking lot, the cars in which are leaking oil, brake fluid, other chemicals, etc., onto the pavement. The rainfall is then washing this pollution into private storm drains discharging into Abernethy Creek, which contains salmon among other species.

Relevant laws and regulations include, but are probably not limited to, the following:

OCMC 8.08.020 - Nuisances affecting health.

The following are declared nuisances affecting health:
(...)

G. The pollution of any public or private well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes *or other substances* (emphasis added).

(Note: whether or not this provision is subject to the prosecutorial discretion of the City is irrelevant. OCMC 13.16.100 puts the burden on the applicant to demonstrate that no pollution of Abernethy Creek is being caused by the storm water discharges.)

ORS 468B.025 Prohibited activities. (1) Except as provided in ORS 468B.050 or 468B.053, no person shall:

(a) Cause pollution of any waters of the state

ORS 468B.050 Water quality permit; issuance by rule or order; rules. (1) Except as provided in ORS 468B.053 or 468B.215, without holding a permit from the Director of the Department of Environmental Quality or the State Department of Agriculture, which permit shall specify applicable effluent limitations, a person may not:

(a) Discharge any wastes into the waters of the state from any *industrial or commercial* establishment or activity *or any disposal system* (emphasis added).

Thank you for your consideration of these comments.

James Nicita
Oregon City

At this time, Mayor Spear, requested Commissioner Fowler to chair the meeting. It was moved by Spear, second by VanOrman, to refer Commission Report 89-109, Proposed Annexation of Property on South Holcomb Boulevard to the City of Oregon City - Resolution No. 89-29, back to staff for reconsideration.

Roll call: Spear, Aye; Smith, Abstain; VanOrman, Aye; Fowler, Aye.

There being no further business, the meeting adjourned at 11:20 p.m.

Jean K. Elliott

JEAN K. ELLIOTT, City Recorder

SPECIAL MEETING Oregon City, Oregon, June 23, 1989

A special meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 a.m.

Roll call showed the following present:

Mayor David D. Spear
Commissioner Carol A. Powell
Commissioner Suzanne VanOrman
Commissioner Daniel W. Fowler
Commissioner Bobby L. Smith

Thomas Fender III, City Manager
Jean K. Elliott, City Recorder
Mark Greenfield, City Attorney

Mayor Spear opened the meeting by calling for Manager's Report No. 89-119, Proposed Ordinance No. 89-1010, An Ordinance Amending Title VIII: Health and Sanitation, of the 1963 City Code, by Adding Chapter 9 Creating a Storm Drainage Utility Fund and Establishing and Imposing Drainage Charges - Second Reading. The report noted that the Oregon City Charter of 1982, Chapter VIII, Ordinances, Section 34, Mode of Enactment, (b), states, in part, the following: "...an ordinance may be enacted at a single meeting of the commission by unanimous vote of all commission members present...".

At the June 15, 1989 meeting, first reading of proposed Ordinance No. 89-1010 was approved on a three - aye; one - nay, vote with one Commission member absent. Therefore, on the June 23, 1989 agenda, there was proposed Ordinance No. 89-1010 presented for second reading and final enactment.

Notice of proposed Ordinance No. 89-1010 was posted at City Hall, 320 Warner Milne Road; Courthouse, 807 Main Street; and, Senior Center, 615 5th Street, by direction of the City Recorder. It was recommended that second reading be approved for final enactment to become effective July 23, 1989.

Commissioner Powell requested a review of the reason for the nay vote on first reading. The Development Services Director reminded the Commission of their prior approval of the master plans and of the Capital Improvement Program and the budget process and that in order to implement those processes, it was necessary for funding to be provided. This was one aspect of the funding needed. Commissioner VanOrman noted that she was not against what was needed, only that she was expressing concern for the costs to the homeowners.

Second reading was called after which it was moved by Powell, second by Fowler, to approve second reading for final enactment.

Roll call: Smith, Aye; VanOrman, Aye; Powell, Aye; Fowler, Aye; Spear, Aye.

ORDINANCE NO. 89-1010

AN ORDINANCE AMENDING TITLE VIII: HEALTH AND SANITATION, OF THE 1963 CITY CODE, BY ADDING CHAPTER 9 CREATING A STORM DRAINAGE UTILITY FUND AND ESTABLISHING AND IMPOSING STORM DRAINAGE CHARGES.

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That Title VIII: HEALTH AND SANITATION, of the 1963 City Code, be and the same is hereby amended by adding Chapter 9: STORM DRAINAGE UTILITY FUND, to read as follows:

CHAPTER 9

STORM DRAINAGE UTILITY FUND

SECTION:

8-9- 1: Intention of City to Operate Storm Drainage System
8-9- 2: Definitions
8-9- 3: Service Charges
8-9- 4: Determination of Service
8-9- 5: Rates Established
8-9- 6: Payment Required
8-9- 7: Collection
8-9- 8: Recovery of Unpaid Charges
8-9- 9: Right of Entry by City Employees
8-9-10: Exemptions
8-9-11: Appeal

8-9-1: INTENTION OF CITY TO OPERATE STORM DRAINAGE SYSTEM: Pursuant to the Constitution and general laws of the State and powers granted in the Charter of the City of Oregon City, the Commission does declare its intention to acquire, own, construct, equip, operate and maintain within and without the City limits of Oregon City, Oregon, open drainageways, underground storm drains, equipment and appurtenances necessary, useful or convenient for the construction of storm drainage improvements including maintenance, extension and reconstruction of the present storm drainage system of Oregon City.

8-9-2: DEFINITIONS: As used in this chapter, except where the context otherwise requires:

(A) "Residential Dwelling Unit" means one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.

(B) "Non-Residential Unit" means any building, or facility or other improved property used other than as a residential dwelling unit.

(C) "Equivalent Residential Unit" (ERU) means a non-residential configuration estimated to place approximate equal demand on the City's storm drainage system as a residential dwelling unit. The equivalent residential unit (ERU) of a non-residential property is computed by multiplying the property's area range number (ARN) by its intensity factor (DIF) as follows:

$$ERN = ARN \times DIF$$

(D) "Area Range Number" (ARN) are ranges of gross area square footage used to classify non-single family residential properties into groups of similar parcel size. Parcels with gross areas of 1 to 2,500 square feet are assigned an area range number (ARN) 1. Parcels with gross areas of 2,500 to 5,000 square feet have an ARN of 2. Parcels with gross areas of 5,000 to 7,500 square feet would have an ARN of 3 and so on so that each additional range of 2,500 square feet shall be counted as an additional ARN of 1.

(E) "Development Intensity Factor" (DIF) is the runoff coefficient that is indicative of the land use or impervious coverage of each property. The following table represents the DIFs for each of the existing land uses and zoning to the use in the calculations.

Non-Residential Land Use or Zoning		Development Intensity Factor
LOC	Limited Office Conditional	0.70
LO	Limited Office	0.80
NC	Neighborhood Commercial	0.80
HC	Historic Commercial	0.70
LC	Limited Commercial	0.70
C	General Commercial	0.90
CBD	Central Business District	0.90
M1	Light Industrial	0.70
M2	Heavy Industrial	0.80
	Conditional Use or Non-Conforming	Apply a composite runoff factor

(F) "Improved Property" means any area which has been altered such that the runoff from the property is greater than that which could have been expected in an undeveloped state. Such condition shall be determined by the City Engineer.

8-9-3: SERVICE CHARGES: There is hereby established and imposed on all improved properties in the City a just and equitable storm drainage utility service charge to implement the City's Drainage Master Plan and the aforesaid storm drainage system. Charges collected shall be deposited into the Storm Drainage Fund of the City and used only for the purposes aforesaid.

8-9-4: DETERMINATION OF SERVICE: The City Commission determines that the property not used for residential dwelling purposes is furnished service in proportion to the size of the property and its development intensity factor based on the definition of "equivalent residential unit" aforesaid.

8-9-5: RATES ESTABLISHED: The following rates are established:

Residential Dwelling Unit	Per Month	$2.00
Non-Residential Unit	Per Month	$2.00/ERU

The service charges, pursuant to this section may be amended by the City Commission by resolution so as to continue to recover cost of service.

8-9-6: PAYMENT REQUIRED: Such service charges shall be paid by those liable therefor and every person subject to a charge provided herein shall pay the same, when due, to the City of Oregon City.

8-9-7: COLLECTION: The service charges shall be collected with the monthly water bill for those connected to water or billed alone as a storm drainage charge for those users not connected to or not otherwise charged for water service.

8-9-8: RECOVERY OF UNPAID CHARGES: Any charge due hereunder which shall not be paid when due shall be collectable with and in the same manner as charges imposed for water service and in any other manner provided by law. Failure to pay the charges imposed by this Chapter shall subject the user and the premises or other person responsible to the collection and lien provisions imposed for water charges.

8-9-9: RIGHT OF ENTRY BY CITY EMPLOYEES: Subject to Constitutional limitations, the employees of the City shall at all reasonable times have access to any premises served by the City for inspection, repair or the enforcement of the provisions of this Chapter.

8-9-10: EXEMPTIONS: Vacant and unimproved properties within the City of Oregon City are exempt from the charges in Section 8-9-5.

8-9-11: APPEAL: Any person who disputes the City's storm drainage service charge may appeal the same within 30 days of first imposition of new or amended charges. The City Manager or the designee of the City Manager shall attempt informally to review such charges and resolve the appeal in writing. If the person is still dissatisfied, that person may appeal the City Manager's decision in writing filed with the City Recorder within 15 days of the City Manager's decision. Such appeal shall be resolved by the City Commission.

Read first time at a regular meeting of the City Commission held on the 15th day of June, 1989, and the foregoing ordinance was finally enacted by the City Commission this 23rd day of June, 1989.

/s/Jean K. Elliott
JEAN K. ELLIOTT, City Recorder

ATTESTED this 23rd day of June, 1989.

/s/David D. Spear
DAVID D. SPEAR, Mayor

Manager's Report No. 89-118, Proposed Annexation of Property on South Holcomb Boulevard to the City of Oregon City - Resolution No. 89-29 - continued from the June 15, 1989 meeting, was presented. The report noted that at the June 15, 1989 City Commission meeting, the Commission referred the proposed annexation on South Holcomb Boulevard to staff for further review. At issue was the inclusion of three properties on the west side of the five properties petitioning for annexation.

The report continued that the three properties were recommended to be included to give the proposal a more logical boundary and to provide a more efficient extension of urban services, in particular sanitary sewer service. Attached was a map of the proposed annexation with the five properties petitioning colored

in yellow and the three properties recommended to be added colored in blue.

The City Commission heard from a lot of property owners adjacent to, but not included in the proposed annexation. Most of the omments came from the South Winston Drive and South Armel Drive neighborhoods, many of whom thought they would become an island.

The issue, as with most of the recent annexations, is the inclusion of some properties that do not want to be annexed. The City Commission's policy has been that these properties should be included where they form a more typical boundary and where they would achieve a more efficient extension of urban services.

The report concluded that staff reviewed the proposal again and still believed that the three intervening properties should be included. Keeping in mind that the City Commission only recommends a particular boundary, the ultimate decision of which property to include rests with the Portland Metropolitan Area Local Government Boundary Commission. It was recommended that the City Commissin approve staff's analysis and adopt Resolution No. 89-29 that will forward the annexation request to the Boundary Commission for consideration.

The Development Services Director presented a review of the Commission guidelines for agressive annexation with the Commission discussing the creation of a logical boundary.

James Ebert of the HOPP Association was present and addressed the Commission noting that he has talked to the petitioners and supports those that want to annex and supports those that do not. He supports the annexation as proposed and noted that the property owners that objected were enjoying the open space provided by the undeveloped property and were therefore, trying to block the annexation, while the property owners were carrying the burden of taxes with no prospect for relief through development.

It was moved by Powell, second by Fowler, to adopt Resolution No. 89-29 as presented.

Roll call: VanOrman, Aye; Powell, Aye; Fowler, Aye; Smith, Nay; Spear, Nay.

RESOLUTION NO. 89-29

A RESOLUTION INITIATING A DOUBLE MAJORITY ANNEXATION REQUEST TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION.

WHEREAS, the City Commission is authorized by ORS 199.490 (2) (B) to initiate an annexation upon receiving consent in writing from a majority of the electors registered in the territory proposed to be annexed and the written consent from owners of more than half the land in the territory proposed to be annexed; and

WHEREAS, the City Commission has received the necessary "consents" in sufficient numbers to meet so-called "double-majority" annexation requirements listed above and has set the boundary of the territory proposed for annexation as authorized by ORS 199.480; and

WHEREAS, the territory proposed to be annexed is presently within the Clackamas County Fire District No. 71, and the Clairmont Water District, and would, be operation of ORS 199.510 (1), be automatically withdrawn from those districts immediately upon consummation of the annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Oregon City, as follows:

Section 1. That the Commission by this Resolution approves the proposed annexation with the boundaries described in Exhibit "A" and depicted in Exhibit "B" attached hereto;

Section 2. That the City Recorder is hereby directed to file certified copies of the statements of consent and this Resolution with the Portland Metropolitan Area Local Government Boundary Commission at once.

Adopted, signed and approved this 23rd day of June, 1989.

_____	/s/Carol A. Powell
Mayor-Commissioner	Commissioner
/s/Suzanne VanOrman	/s/Daniel W. Fowler
Commissioner	Commissioner
_____	Comprising the City Commission
Commissioner	of Oregon City, Oregon

Manager's Report No. 89-115, Creation of Checking Account - Resolution No. 89-30, was presented. The report noted that recently, proposals were requested and reviewed for the creation of a checking account for the City's payroll account. After analysis of the proposals submitted, it was the recommendation of staff that the United States National Bank, Hilltop Branch, be selected as the City's payroll account provider.

The report continued that this was not a bid award as the dollar value was below the requirements for the bidding process. It was that the bank requires a corporate resolution whenever an account is created involving public funds.

Therefore, on the June 23, 1989, Special Commission meeting agenda, there was proposed Resolution No. 89-30 which directs the United States National Bank to create a checking account for the City of Oregon City for the purpose of direct deposit of employee payroll and provides City agreement to be bound by applicable Federal and State laws, rules and regulations regarding the account.

It was moved by Fowler, second by VanOrman, to adopt Resolution No. 89-30 as presented.

Roll call: Powell, Aye; Fowler, Aye; Smith, Aye; VanOrman, Aye; Spear, Aye.

RESOLUTION NO. 89-30

WHEREAS, the City Commission of Oregon City, Oregon, desires to create a checking account at United States National Bank, Hilltop Branch, 1600 Molalla Avenue, Oregon City, Oregon; and

WHEREAS, the City Commission hereby certifies that the City of Oregon City is a municipal corporation of the State of Oregon; and

WHEREAS, the funds to be deposited to the credit of the account are and will be public funds.

NOW, THEREFORE, BE IT RESOLVED by the City Commissin of Oregon City, Oregon, that the above named bank is hereby authorized to create said checking account and that we hereby agree to be bound by applicable Federal and State laws, rules and regulations for as long as the account remains open.

Adopted, signed and approved this 23rd day of June, 1989.

/s/David D. Spear
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/Daniel W. Fowler
Commissioner

/s/Bobby L. Smith
Commissioner

Comprising the City Commission of Oregon City, Oregon

Manager's Report No. 89-116, Transfer of Appropriations for Fiscal Year 1988-89 - Resolution No. 89-32, was presented. The report noted that ORS 294.450 provides the legal basis for transfer of appropriations within a fund. One of those methods provides that the City Commission can make adjustments by resolution if the adjustments involve transfer of funds between departments within the General Fund or between major expenditure areas of other funds. Likewise, utilization of Contingency funds must also be approved by City Commission resolution.

On the June 23, 1989 agenda, there was proposed Resolution No. 89-32 which included an explanation of the changes to appropriations. The expenditure transfers are balanced within each fund, except for the elimination of the Street Department, now a separate fund, revenues and expenditures.

GENERAL FUND

City Commission: Increase to provide for payment of membership dues and salary of part-time employee.

City Manager and Recorder: Increase to provide for payment of secretarial salary, printing, office supplies, newspaper ads, legal ads and miscellaneous.

City Attorney (Legal): Increase to provide for legal services on a contracted basis. Expenses are paid on a case-by-case basis with an appropriation to cover the entire amount as contracted services.

Municipal Court: Increase to provide for the increase in contracted services of the Municipal Judge as directed by the City Commission.

Finance/Personnel: Increase to provide for computer maintenance, printing and publications.

Non-Departmental: Decrease in amount for general insurance from negotiated decrease in cost. Decrease in Contingency to provide for payment of increases listed.

Streets: Decrease as the Department is now a separate fund as created by Supplemental Budget No. 2 in January, 1989. The salaries for Elevator Operators will remain an obligation of the General Fund.

Cemetery Fund: Balances by shifting appropriation as required between Personal Services, Materials and Services, Capital Outlay and Contingency.

Cable TV Systems Improvement: Balances by shifting appropriation as required between Materials and Services and Capital Outlay to allow for payments to the cable operations for the cities of West Linn, Gladstone and Oregon City.

The report concluded that in order to make the transfer of appropriations as needed, it was necessary for the City Commission to approve a resolution. Based on the information provided, it was recommended that the City Commission approve Resolution No. 89-32.

It was moved by Smith, second by Powell, to adopt Resolution No. 89-32 as presented.

Roll call: Fowler, Aye; Smith, Aye; VanOrman, Aye; Powell, Aye; Spear, Aye.

RESOLUTION NO. 89-32

WHEREAS, ORS 294.450 provides the legal basis for transfers of appropriations within a fund, and

WHEREAS, the City Commission adopted a budget for 1988-89 and by Resolution No. 88-44 made appropriations for the current fiscal year; and

WHEREAS, the need now exists to transfer additional appropriations within the General Fund to prevent a deficit.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the Changes to Appropriations as attached and made a part hereof, be authorized.

Adopted, signed and approved this 23rd day of June, 1989.

/s/David D. Spear
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/Daniel W. Fowler
Commissioner

/s/Bobby L. Smith
Commissioner

Comprising the City Commission of Oregon City, Oregon

Manager's Report No. 89-117, Invitation to Clackamas County - Resolution No. 89-31, was presented. The report noted that recently, newspaper articles have carried information that Clackamas County is considering moving their corporate offices to an as yet undetermined location possibly outside of Oregon City.

As a result of that information, on the June 23, 1989 agenda, there was proposed Resolution No. 89-31 which extends an invitation to the Clackamas County Board of Commissioners to continue their commitment to our community by consolidating and keeping County offices in Oregon City.

The report continued that until the "Location Bill" of 1851 moved the State capital to Salem, Oregon City, historically, has been the seat of the Oregon Territorial government.

Given that Oregon City was the first incorporated City west of the Rockies, it was natural that Oregon City be the "seat" of County government.

Pursuant to ORS 202.120, the county court may temporarily fix the county seat, however, an election is then required wherein the electors are provided the opportunity to vote on such change.

The report concluded by recommending that the City Commission adopt Resolution No. 89-31 to be forwarded to the Board of Commissioners as an expression of Oregon City's desire to continue as a viable and important business of our community.

It was moved by Fowler, second by Powell, to adopt Resolution No. 89-31 as presented.

Commissioner VanOrman requested that the word "invited" in the last paragraph of the resolution be changed to "encouraged". The motion was amended and seconded to include that change.

Roll call: Smith, Aye; VanOrman, Aye; Powell, Aye; Fowler, Aye; Spear, Aye.

RESOLUTION NO. 89-31

A RESOLUTION EXTENDING AN INVITATION FROM THE CITY COMMISSION OF OREGON CITY TO THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS TO CONTINUE THEIR COMMITMENT TO OUR COMMUNITY BY CONSOLIDATING AND KEEPING COUNTY OFFICES IN OREGON CITY.

WHEREAS, Oregon City was laid out and named in 1842 by Dr. John McLoughlin on his Land Claim of 1829; and,

WHEREAS, Oregon City became a Provisional Government in 1844; and

WHEREAS, in 1849, Oregon City was the Territorial Government; and

WHEREAS, with the passage of the "Location Bill" of 1851, Oregon City ceased to be the capital of Oregon; and

WHEREAS, with Oregon City's richness of history and early political involvement as the Provisional Government, Territorial Government and as the original and only County Seat of Clackamas County, Oregon City does not wish to cease to be the County Seat of Clackamas County.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the Clackamas County Board of Commissioners are hereby encouraged to continue their commitment to Oregon City by consolidating and keeping County offices in Oregon City.

Adopted, signed and approved this 23rd day of June, 1989.

/s/David D. Spear
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/Daniel W. Fowler
Commissioner

/s/Bobby L. Smith
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 89-114, Railroad Depot Relocation Purchase Agreement Authorization, was presented. The report noted that a copy of an Agreement for Sale and Purchase with Emmert International for the relocation of the City's Old Railroad Freight Depot was attached. The form of the agreement was changed from a relocation contract to a purchase and sale agreement to reduce the cost associated with prevailing wage requirements and to reduce the liability involved for the City.

The report continued that the Commission discussed the funding sources and amounts at the June 7 meeting and at the June 15 work session. Only representatives from the Enhancement Committee attended the work session. There was a lack of consensus on which funding sources and how much to use from each fund. The staff recommendation had been to use some from each of the three funding sources discussed, i.e., $19,842 - Civic Improvement Trust; $15,000 - Oregon City-METRO Enhancement; and, $15,000 - Urban Renewal, for a total of $49,842.

Funds were available in each of the funds; however, there were differences of opinion on whether the depot project would fit the intent of each of the funds. The Enhancement Committee was the only committee that did not want enhancement funds used.

In assisting the Commission, there is need to better distinguist the ultimate use of the Depot. This would decide which funding source/s to use. The staff position was tht the Depot would be a potential tourism resource, therefore, eligible for Trust Funds; an economic development project, therefore eligible for Urban Renewal Funds; and, an improvement to the gateway if located ther, therefore eligible for Enhancement funds.

The report concluded that if the Commission did not want to use Enhancement funds, then it should consider allocating more funds from the other sources. If the Commission felt the project was economic development and tourism, one option might be: $30,000 - Urban Renewal; and, $19,842 - Civic Improvement Trust. Staff followed Commission direction and negotiated a contract. A decision on funding is needed before the building is moved.

The Development Services Director advised that the Herman Bergman, Station Master, lives in Canby, and worked in this particular depot. He advised that this depot was both freight and passenger.

It was moved by Powell, second by Fowler, in favor of the project with the funding of $30,000 Urban Renewal and, $19,842 Trust funds, and that the Mayor and City Recorder are directed to execute the sales agreement.

VanOrman questioned from whose budget the upkeep of this project would be funded. The Manager noted the Parks budget with the project managed by the Urban Renewal District. Smith noted that he was opposed to the project.

Roll call: VanOrman, Nay; Powell, Aye; Fowler, Aye; Smith, Nay; Spear, Nay.

Manager's Report No. 89-120, Litigation - Country Village, was presented. The report noted that on June 17, 1989, the City Commission met in Executive Session to receive information from City legal counsel pursuant to ORS 192.660 (1)(h), regarding the Country Village litigation process and status.

Based upon counsel's opinion as to ultimate appellate jurisdictional decision, and upon their own motion, the City Commission expressed wanting to go on record that they will not pursue the $410,742.00 damages portion of the enforcement action (CA A50862) as to the defendant, Clackamas County, when and if that case is remanded to Circuit Court.

The report concluded that this report, once accepted, would be forwarded to City legal counsel for appropriate action.

It was moved by Fowler, second by VanOrman, to accept Commission Report No. 89-120.

It was then moved by Powell, second by Spear, to table this matter pending a decision in the Appellate Courts.

Roll call: Powell, Aye; Fowler, Nay; Smith, Nay; VanOrman, Nay; Spear, Aye.

Fowler noted that he feels the public relations that needs to be done and supports this action.

Smith noted supporting this action because it went with Resolution No. 89-31 just adopted.

Powell asked if this was a removal of the entire case. The Manager advised no that this is to remove the damages portion only and the City would not lose its ability to settle this case. It was asked what will the County extend to the City and will the County move forward and cooperate with the City now. Fowler

noted feeling that this action will move the City forward with the County.

Roll call: Fowler, Aye; Smith, Aye; VanOrman, Aye; Powell, Nay; Spear, Aye.

There being no further business, the meeting adjourned at 9:20 a.m.

Jean K. Elliott

JEAN K. ELLIOTT, City Recorder

REGULAR MEETING Oregon City, Oregon, July 5, 1989

A regular meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 p.m.

Roll call showed the following present:

Mayor David D. Spear
Commissioner Carol A. Powell
Commissioner Suzanne VanOrman
Commissioner Daniel W. Fowler
Commissioner Bobby L. Smith

Thomas Fender III, City Manager
Jean K. Elliott, City Recorder
Edward Sullivan, City Attorney

It was moved by VanOrman, second by Smith, to approve the minutes of June 15 and 23, 1989.

Roll call: Powell, Abstain; Fowler, Aye; Smith, Aye; VanOrman, Aye; Spear, Aye.

This was the opportunity for citizens to present items for future agendas.

Gary Kuehn, 904 Pierce Street, requested that the City's water shut-off policy be on a future agenda.

James Curtis, 16038 S. Depot Lane, requested the exemption of CPO's appeals to Planning Commission decisions with regard to waiver of fees be brought before the Commission. Further, he noted that an appeal of the Knappton/Reidel log pond issue was in appeal and requested a waiver of the fees.

When asked if the City can waive the fee, the City Attorney advised the ordinance does not provide for that but the Commission can make a policy decision and do so. He noted that the law does not require this and it can be on a case-by-case basis but it is better to amend the zoning ordinance for the waivers.

REGULAR MEETING Oregon City, Oregon, December 1, 1993

A regular meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 p.m.

Roll call showed the following present:

Mayor Daniel W. Fowler
Commissioner Suzanne VanOrman
Commissioner Robert M. Light
Commissioner James R. Ebert

Charles Leeson, City Manager
Edward J. Sullivan, City Attorney

The flag salute was lead by Mayor Fowler, after which he called for approval of the minutes. It was moved by Light, second by VanOrman, to approve the minutes of November 3 and 17, 1993.

Roll call: Ebert, Aye; VanOrman, Aye; Light, Aye; Fowler, Aye.

On the call for citizen presentations and future agenda items, Sherry Davis, Oregon City, spoke regarding the City's commemorative coin and presented a coin to each member of the Commission.

John Stewart, Deputy Chief of Police, presented the City an award from the Paralyzed Veterans of America in recognition of leadership and participation in the parking for the disabled volunteers enforcement program. He announced that the Oregon City Police Department would be bringing three crime prevention programs to be presented on Willamette Falls TV, Channel 11, at 1:00 PM on Mondays, 8:30 PM on Tuesdays and will be repeated weekly through the month of March.

Commission Report No. 93-259, Request for Comprehensive Plan Amendment Zone Change for 4.71 Acres Located on the South Side of S. Thayer Road, East of Beavercreek Road - Public Hearing, was presented by the Manager. The report noted that on the December 1, 1993 agenda was a request by Pro West, Inc., for a Comprehensive Plan Amendment and Zone Change for property located on the south side of S. Thayer Road, containing approximately 4,71 acres. The request was to change the Comprehensive Plan from "LR", Low Density Residential to "LR/MH", Low Density Residential/Manufactured Home, and a zone change from "R-10", Single-Family Dwelling District to "R-6/MH", Single-Family Dwelling District.

The report continued that the Planning Commission conducted a public hearing on this request on November 23, 1993. The action taken was to recommend approval of the request; no conditions were attached at this time.

Attached for Commission review were the following: 1) Planning Commission minutes from November 23, 1993; 2) staff report; and 3) public notice and map of the property.

The report concluded by noting that it should be noted that the Commission has the responsibility to consider all facts presented and to interpret these facts against the Comprehensive Plan and Zone Change criteria. Upon a decision by the City Commission, a final order and ordinance would be prepared for adoption at a future meeting.

The City Attorney read the cautions which arise out of ORS 197.763 (5). At the beginning of the hearing a statement shall be made to those in attendance that lists the applicable criteria. The criteria is available in the staff report and anyone wanting a copy, they are available. The testimony and evidence must be directed toward those criteria or other criteria in the Plan or regulations which the person believes to apply to the decision and failure to raise an issue with sufficient specificity to afford the decision maker and other parties an opportunity to respond to that issue precludes appeal to LUBA on that issue.

Mayor Fowler opened the public hearing and called for abstentions. None were declared. There were no conflicts or ex parte communications.

Denyse McGriff, Principal Planner, presented the Commission Report. She advised that this property was annexed, along with several others, earlier this year.

Fowler asked if the new law, effective May 1994, would make this zone obsolete. McGriff responded that it would not, this zone will still continue to be a valid zone and was designed to accommodate a range of manufactured housing.

VanOrman asked why manufactured homes are on 6,000 square feet. McGriff responded that this was not a 6,000 square foot lot, it was 6,800 square feet. VanOrman asked if they could be placed on R-10. McGriff responded that our ordinance currently only allows manufactured dwellings on individual lots in the R-6/MH zone.

Jim Hall, 328 Ainsworth, applicant, addressed the Commission noting that he has had this property listed for an extended period of time. He worked for annexation and to have it designated Campus Industrial. It was annexed as R-6/MH and not Campus Industrial. He then met with the property owners to put together a package to accommodate all property owners. Regarding the lot size, the configuration of the particular properties, they will end up with a max of three lots more than under R-10.

On the call for testimony, none was offered. The hearing was closed.

Light expressed concern that R-6/MH exceeds the minimum requirement about 38 percent. McGriff responded this was correct. The City has two parcels of about 25 acres that is being utilized for other than R-6/MH, so that would be removed from the inventory.

It was moved by VanOrman, second by Ebert, to approve the Comprehensive Plan Amendment and zone change request.

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

Commission Report No. 93-255, Proposed Ordinance No. 93-1025, An Ordinance Amending Title 13: Public Services, Chapter 13.16.030: Service Charges, Chapter 13.16.060: Payment Required, Chapter 13.16.080: Recovery of Unpaid Charges, Chapter 13.16.100: Exemptions, Chapter 13.16.110: Appeal, of the Oregon City Municipal Code, 1991, to Require Fees to be assessed for Use of the City's Storm Drainage Services, was presented by the Manager. The report noted that on the December 1, 1993 agenda was proposed Ordinance No. 93-1025 which would amend Title 13: Public Services, Chapter 13.16; Storm Drainage Service Charges.

The report continued that basically the changes were as follows:

13.16.030. Service Charges. This Section now places payment of the service charge on the persons occupying the property as opposed to imposition on the improved property.

13.16.060. Payment Required. This Section now provides for payment by the current occupant or person entitled to possession of the property.

13.16.080. Recovery of Unpaid Charges. This Section removes the placement of a lien against the property for non-payment and provides for collection efforts or other lawful remedies, such as curtailment of City services.

13.16.100. Exemptions. This Section combines exemptions, reductions and appeal and provides for a process for each.

13.16.110 Appeal. This Section will be repealed because it is combined with 13.16.100.

The report concluded by noting that Notice of proposed Ordinance No. 93-1025 was been posted at City Hall, Courthouse and Senior Center by direction of the City Recorder. It is recommended that first reading be approved, second reading be called and approved for final enactment to become effective December 31, 1993.

Fowler asked about 13.16.030, if the change was to move from the owner to the occupant and would that preclude the City from billing the owner. Scott Harper, Finance Officer, responded that a declaration by the Supreme Court is to bill the one who is using the service; if the owner wants the billing to rebill the occupant, this can be done with the owner considered the user of the service. The City cannot make it mandatory that the owner be liable for this fee.

It was moved by VanOrman, second by Light, to approve first reading of proposed Ordinance No. 93-1025, noting a typographical error in the second line of the third "whereas" the word "sue" should be "use".

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

Second reading was called after which it was moved by VanOrman, second by Ebert, to approve second reading for final enactment to become effective December 31, 1993.

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

ORDINANCE NO. 93-1025

AN ORDINANCE AMENDING TITLE 13: PUBLIC SERVICES, CHAPTER 13.16.030: SERVICE CHARGES, CHAPTER 13.16.060: PAYMENT REQUIRED, CHAPTER 13.16.080: RECOVERY OF UNPAID CHARGES, CHAPTER 13.16.100: EXEMPTIONS, CHAPTER 13.16.110: APPEAL, OF THE OREGON CITY MUNICIPAL CODE, 1991, TO REQUIRE FEES TO BE ASSESSED FOR USE OF THE CITY'S STORM DRAINAGE SERVICES

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, Oregon City presently provides for the construction maintenance and reconstruction of storm drainage systems within the City; and

WHEREAS, Oregon City presently imposes certain service charges to implement the City's Drainage Master Plan and storm drainage system; and

WHEREAS, Oregon City wishes to amend and clarify such service charges so that only persons actually using the storm drainage system are charged for its use and so that it is clear that the service charge is not a general or property tax obligation.

Therefore,

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That Title 13: PUBLIC SERVICES, Chapter 13.16.030: SERVICE CHARGES, is hereby amended to read as follows:

13.16.030 Service Charges. There is established and imposed on all persons occupying improved properties utilizing the City's storm drainage system, a just and equitable storm drainage utility service charge to implement the City's Drainage Master Plan and pay for the City's storm drainage system. Charges collected shall be deposited into the storm drainage fund of the City and used only for storm drainage purposes.

Section 2. That Title 13: PUBLIC SERVICES, Chapter 13.16.060: PAYMENT REQUIRED, is hereby amended to read as follows:

13.16.060 Payment Required. Such service charges shall be paid by the current occupant or person entitled to possession of the property from which stormwater discharges (directly or indirectly) to the City storm drainage system.

Section 3. That Title 13: PUBLIC SERVICES, Chapter 13.16.080: RECOVERY OF UNPAID CHARGES, is hereby amended to read as follows:

13.16.080 Recovery of Unpaid Charges. Any charge due hereunder which shall not be paid when due shall be collectable pursuant to collection efforts or other lawful remedies of the City, but no lien may be placed on the property solely for failure to pay the service charges. The City may curtail or cut off the supply of water or other City services to persons who have failed to pay unpaid charges. In no event shall water supply be withheld from any new occupant of property because of the failure of a prior occupant to pay a storm drainage utility service charge.

Section 4. That Title 13: PUBLIC SERVICES, Chapter 13.16.100: EXEMPTIONS, is hereby amended to read as follows:

13.16.100 Exemptions, Reductions and Appeal. Vacant and unimproved properties within the City are exempt from the charges in Section 13.16.050. Any other person seeking an exemption or reduction in the storm drainage fee, or appealing therefrom, may do so pursuant to a demonstration to the City Manager or the Manager's designee that the public storm drain service does not receive stormwater from property used or occupied by that person. Such demonstration shall include evidence of legal disposal of storm water to a private retention system, private storm drain system, public water body, or other receiving facility.

Section 5. That Title 13: PUBLIC SERVICES, Chapter 13.16.110: APPEAL, is hereby repealed.

Read for the first time at a regular meeting of the City Commission held on the 1st day of December, 1993 and the foregoing ordinance was finally enacted by the City Commission this 1st day of December, 1993.

/s/JEAN K. ELLIOTT, City Recorder

ATTESTED this 1st day of December, 1993.

/s/DANIEL W. FOWLER
DANIEL W. FOWLER, Mayor

Commission Report No. 93-258, Resolution No. 93-70 - Combined Sewer Separation Program - Sewer Rate Increase, was presented by the Manager. The report noted that on the December 1, 1993 agenda was a resolution that increased the bimonthly sanitary sewer user charge from $16 per equivalent residential unit to $18, effective January 1, 1994, and from $18 to $20 effective January 1, 1995, and from $20 to $22 effective January 1, 1996. The timing of the increase is to coincide with the issuing of $6,000,000 in Sewer Revenue Bonds. The increase is part of the implementation program for the EPA required combined sewer separation program. The original cost of sewer separation phases 4 through 8 was $4.8 million. The final coast is now at $6.9 million, with a loan of $900,000 from the State Revolving Fund. The final rates must provide for debt service and required coverage. It was recommended that Resolution No. 93-70 be adopted.

It was moved by Light, second by Ebert, to adopt Resolution No. 93-70.

Roll call: VanOrman, Aye; Ebert, Aye; Light, Aye; Fowler, Aye.

RESOLUTION NO. 93-70

A RESOLUTION ESTABLISHING THE MINIMUM BIMONTHLY RATE TO BE CHARGED FOR SANITARY SEWER SERVICE FURNISHED EACH USER WITHIN THE CITY LIMITS

WHEREAS, the City has an agreement with Tri-City Service District that allows the City to set its own sewer rates by resolution; and

WHEREAS, the City increased its bimonthly sewer rates from $14 to $16, July 1, 1992 and established a reserve fund for the EPA required combined sewer separation program; and

WHEREAS, the City needs to increase sewer rates over the next three years to fully meet the debt service obligation of the EPA required combined sewer separation program.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City, a municipal corporation of the State of Oregon, at a regular session held on the 1st day of December, 1993, that:

Section 1. SEWER RATES shall be as set forth below:

Customer Class	Bimonthly Charge		
	Effective Jan. 1, 1994	Effective Jan. 1, 1995	Effective Jan. 1, 1996
Rates per equivalent residential unit (ERU)	$18	$20	$22
Senior/Disabled Citizens (Subject to income eligibility)	$ 9	$10	$11

Adopted, signed and approved this 1st day of December, 1993.

/s/Daniel W. Fowler
Mayor

/s/James R. Ebert
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/
Commissioner

/s/Robert M. Light
Commissioner

Comprising the City Commission of Oregon City, Oregon

Commission Report No. 93-254, Public Works Purchase of a Backhoe/Loader - Bid Award, was presented by the Manager. The report noted that contained within the 1993-94 Water Division of the Public Works budget was funding for the purchase of a Backhoe/Loader. On November 22, 1993, the City received sealed bids for the purchase of this equipment. The Tabulation of Bids is attached for Commission review.

The report continued by noting that the City received four requests for specifications; however, one bid only was submitted from: Triad Machinery, Inc. $67,921.05

Based upon the receipt of the one bid only, it was recommended that the bid be awarded to Triad Machinery, Inc. for the amount of $67,921.05.

It was moved by VanOrman, second by Ebert, to award the bid to Triad Machinery, Inc. for the amount of $67,921.05.

Roll call: Light, Aye; VanOrman, Aye; Ebert, Aye; Fowler, Aye.

CONSENT AGENDA

The following were routine and could be approved in one motion. On the call for discussion of a particular item, none was requested. It was moved by Light, second by VanOrman, to approve the items in the Consent Agenda as recommended on each report.

Roll call: Ebert, Aye; Light, Aye; VanOrman, Aye; Fowler, Aye.

Commission Report No. 93-256, Proposed Ordinance Revising the Business License Fees and Proposed Resolution for New Fees - Request for Continuance, was presented. The report noted that at its November 17, 1993 meeting, the City Commission held a lengthy discussion regarding

proposed Ordinance No. 93-1024 and proposed Resolution No. 93-68. As a result of that discussion, staff was directed to amend the proposed ordinance, meet with the Chamber of Commerce and members of the business community for their input. Both the ordinance and resolution were continued to the December 1, 1993 agenda.

In order to properly communicate with the Chamber of Commerce and members of the business community, it is requested that this matter be continued until next spring. Since the end of the business year is upon us, it is not possible to present the Commission with a report that contains what was directed.

Delaying action until next year would provide the time to schedule a work session to properly receive input from the Chamber and the business community and will allow for the business license process to be completed for 1994.

If the Commission agrees with this proposal, staff should be directed to delay this matter to next spring for implementation in 1995.

* * * * *

Commission Report No. 93-257, Liquor License Application - Trail's End Saloon, 1320 Main Street - Greater Privilege, was presented. The report noted that at a Special meeting of the City Commission held March 28, 1983, Commission Policy 1-7 entitled, "Approval of Liquor License Renewals" was adopted. Commission Policy 1-7 states as follows: "The Mayor is authorized to approve all liquor license renewals if these renewals are approved and recommended by the Fire and Police Department. The approval by the Mayor can be made without City Commission authorization. However, all new liquor licenses shall be submitted to the City Commission for consideration."

On the December 1, 1993 agenda was an application for an OLCC liquor license for Greater Privilege for the Trail's End Saloon, 1320 Main Street. The requested change was from a Retail Malt Beverage to Class A Dispenser License which allows service of by-the-drink of distilled spirits in addition to the beer and wine currently licensed.

Fire and Police Department investigation revealed no information that would warrant denial of the application. Based upon the information provided, it was recommended that the application be approved.

* * * * *

Commission Report No. 93-253, Intergovernmental Agreement - Community Development Block Grant - Front Avenue Drainage and Road Improvements, was presented. The report noted that Oregon City obtained Community Development Block Grant funding for design and construction of street, drainage and water facility connection improvements on Front Avenue from Holcomb Boulevard to Forsythe Road in the Park Place neighborhood. This street was selected because sewer and water improvements have been completed and improvement would greatly enhance safety in the area of Park Place Elementary School. The grant provides up to $200,000 for design and construction of roadway reconstruction and widening, drainage, and water facility connection improvements. The City's 20 percent match will include $29,000 of road transfer funds and $21,000 of street funds for a total of $250,000 in project funding. Due to the limited funding, roadway

improvements will include two twelve foot travel lanes and two bikelanes, but not curb and sidewalks at this time.

Attached was the standard City/County Intergovernmental Agreement for Community Development Block Grants. It was recommended that the agreement be approved and the City Manager authorized to sign them on behalf of the City.

* * * * *

The Manager advised of the receipt of the approval of the HUD funding in the amount of $3 million for the construction and design of the Preview Center. He believed that staff had the authority up to date. He asked again to direct probably the Mayor to execute the agreement subject to review by the City Attorney's office. You will have the final form before you, the grant is just exactly as explained in work sessions.

The City Attorney advised he read the agreement and has no disagreement with the form and you are not going to be able to do much with it anyway. He had no objection to its form.
The Manager requested that the Mayor be authorized to execute the agreement.

It was moved by VanOrman, second by Ebert, to authorize the Mayor to execute the agreement.

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

At this time, Mayor Fowler re-appointed Doug Neeley to a vacant position on the Library Board with term expiring December 31, 1997.

VanOrman advised she was called by Mary Whiteside Buol regarding attending a meeting to discuss with Metro councilors the transfer station. VanOrman advised she did not feel comfortable discussing the transfer station and the Wilsonville transfer station. VanOrman asked what the opinion of the Commission with the Commission deciding who should attend a meeting. The Manager noted that they had their opportunity this evening to discuss that or make their presentation. They did not mention the transfer station. Fowler noted the City has an agreement and that should be respected by both parties under the approved terms of the agreement. When it expires, the City should raise concerns during negotiations. Ebert wanted a work session before the discussions are held.

With no further business, the meeting adjourned at 9:20 p.m. with the Commission meeting in Executive Session pursuant to ORS 192.661 (1)(h) Legal Counsel.

CHARLES LEESON, Recording Secretary

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REGULAR MEETING Oregon City, Oregon, December 15, 1993

A regular meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 p.m.

Roll call showed the following present:

Mayor Daniel W. Fowler
Commissioner Suzanne VanOrman
Commissioner Robert M. Light

Charles Leeson, City Manager
Edward J. Sullivan, City Attorney

The flag salute was lead by Mayor Fowler, after which he called for approval of the minutes. It was moved by VanOrman, second by Light, to approve the Executive Session minutes of November 3 and December 1, 1993 and the regular session minutes of December 1, 1993.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

On the call for citizen presentations and future agenda items, Police Chief Martin presented the AAA Award for no pedestrian fatalities in Oregon City for the last four years.

Stepping back in time, Mayor Fowler noted that on October 29, 1866, an ordinance was passed giving City officers the power to suppress "houses of ill-fame"; on February 6, 1867, a special committee examined the records of deeds on file in the County Recorders office and could find no records of deeds from John McLoughlin to the Methodist Episcopal Church or to any other party for the said Church property with Jesse Applegate surveying that tract in 1843; our population on March 9, 1867 in Oregon City was 1,018 with 561 males, 457 females and children between the ages of 4 and 20 were 390; and, in 1867, a bill was presented by J.M. Bacon for expenses in going to Eugene city for the search for the original plat of Oregon City supposed to be in the land office at that place.

Commission Report No. 93-266, Request for Zone Change 21.97 Acres South of Glen Oak Road, west of South Beavercreek Road - Public Hearing, was presented by the Manager. The report noted that on the December 15, 1993 agenda wasa request for a zone change by the Randall Group for a change from "R-10" Single-Family Dwelling District to "R-8" Single-Family Dwelling District. The parcel is the plat of Homestead Acres and is approximately 21.97 acres located south of S. Glen Oak Road and west of S Beavercreek Road.

The report continued that the Planning Commission held a public hearing on November 23, 1993 to review the request. After public testimony, they voted 5 to 0 to approve the request for the following reasons: 1) rezoning would encourage a replat of the Homestead Acres; 2) would facilitiat compatibility with the subdivision to the north (Fairway Downs 1); and 3) provide housing on land available for development.

The Planning Commission minuutes of November 23, 1993, the staff report and the public notice and map of the property were attached for review.

The report concluded by noting that the City Commission had the responsibility to consider all facts presented and to review these facts agains the zone change criteria. A final order and ordinance would be prepared for Commission consideration and adoption at a future meeting.

In presenting the Commission Report, the Manager introduced the City's new Community Development Director, Max Talbot.

The City Attorney noted that this was a quasi-judicial proceeding and disclosed that the applicable criteria were those contained in the staff report with a copy available for review; testimony and other evidence must be directed toward the criteria or to any other criteria in the City's Plan or land use regulations which any party may believe to apply to the decision and failure to raise an issue with sufficient specificity to afford the decision makers or the other party an opportunity to respond to that issue would preclude appeal to the Land Use Board of Appeals on that issue.

Mayor Fowler opened the hearing and called for abstentions. None were declared.

Denyse McGriff, Principal Planner, presented the staff report. Additionally, she noted that in 1991, the City reviewed a request for annexation of this property with the property to the north owned by the Robert Randall and the Company and the property to the south owned by the Tiki Company. The Robert Randall Group has purchased this property and are requesting the re-zone. She advised this was platted in the 1970s with 40-foot rights-of-way, large amount of open space that is not accessible to most of the development. In order for the development proposals to meet the City's criteria for the property width for streets, sidewalks and other public improvements, a re-platting is in the City's best interest. Approval of the request is recommended.

Steve Mozinski, representative of the Randall Company, spoke supporting the staff recommendations. Light asked what the reason was to go from R-10 to R-8. Mozinski noted a survey of builders in the area was done with a number of houses not needing 10,000 square foot lots in the price range that the homes would be. These lots are adequate to provide for three-car garages plus the homes. R-10 would not provide any more of a lot for a builder to build upon, an R-8 is more affordable than an R-10; economy was the reason.

At this point testimony was requested. With none offered, the hearing was closed.

Light felt that one reason for the change was that Fairway Downs would be more compatible to the neighboring development. One side is R-8 and the other R-10. McGriff responded that a small portion of the property to the south was not in the City limits or the Urban Growth Boundary with those parcels zoned Future Urban 10-acre minimum with the developments platted in the early 1970s with them being non-conforming to the zone. Fairway Downs to the north on Glen Oak is an R-8.

On the call to re-open the public hearing, no request was presented.

It was moved by VanOrman, second by Light, to approve the request and direct staff to prepare an ordinance and final order for future presentation.

Roll call: VanOrman, Aye; Light, Aye; Fowler, Aye.

Commission Report No. 93-263, Proposed Ordinance No. 93-1026, An Ordinance Authorizing the City Manager to Enter into the Clackamas Regional Elected Group (CREG) Intergovernmental Agreement on Behalf of the City of Oregon City and to do all Things Necessary to Protect the

Interests of the City Under that Agreement, was presented by the Manager. The report noted that at its November 17, 1993 meeting, the City Commission adopted Resolution No. 93-69 which contained the Clackamas Regional Elected Group (CREG) Intergovernmental Agreement. After Commission adoption of the resolution, staff was advised by legal counsel that the Intergovernmental Agreement should have been adopted by ordinance.

The report continued that on the December 15, 1993 agenda was proposed Ordinance No. 93-1026 which presents again the CREG Intergovernmental Agreement for Commission approval.

Notice of proposed Ordinance No. 93-1026 was posted at City Hall, Courthouse and Senior Center by direction of the City Recorder. It was recommended that first and second readings be approved for final enactment to become effective January 14, 1994.

It was moved by VanOrman, second by Light, to approve first reading of proposed Ordinance No. 93-1026.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

Second reading was called after which it was moved by VanOrman, second by Light, to approve second reading for final enactment to become effective January 14, 1994.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

ORDINANCE NO. 93-1026

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO THE CLACKAMAS REGIONAL ELECTED GROUP (CREG) INTERGOVERNMENTAL AGREEMENT ON BEHALF OF THE CITY OF OREGON CITY AND TO DO ALL THINGS NECESSARY TO PROTECT THE INTERESTS OF THE CITY UNDER THAT AGREEMENT

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, a region-wide emergency response communication network is an important component of a coordinated emergency services system; and

WHEREAS, all of the incorporated cities in Clackamas County, the Clackamas County Sheriff's office, the county itself, and all fire service providers in the county have been invited to form an organization to coordinate the establishment and operation of a county-wide 911 emergency response network; and

WHEREAS, because of the impact this organization poses for the City, and the significance of the services it will provide, it is important that the City should become a participating member of the organization by authorizing the City Manager to execute the agreement on behalf of the City; and

WHEREAS, if the City is to become a member of CREG, it is also important that the City authorize the City Manager to participate fully in CREG and to do all things necessary and lawful under the CREG agreement to ensure that the best interests of the City and its citizens are protected.

Now, therefore,

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That the City Manager is hereby authorized and directed to sign the Intergovernmental Agreement (the "Agreement"), attached as Exhibit "A" hereto and incorporated herein as if fully set forth, thereby committing the City to participation in the Clackamas Regional Elected Group (CREG).

Section 2. That the City Manager is hereby authorized and directed to participate as the City's representative in the intergovernmental organization thereby formed and to do all things necessary and lawful under the agreement to protect the interests of the City.

Read for the first time at a regular meeting of the City Commission held on the 15th day of December, 1993, and the foregoing ordinance was finally enacted by the City Commission this 15th day of December, 1993.

/s/JEAN K. ELLIOTT, City Recorder

ATTESTED this 15th day of December, 1993.

/s/Daniel W. Fowler
DANIEL W. FOWLER, Mayor

Commission Report No. 93-264, Proposed Ordinance No. 93-1027, An Ordinance Amending Chapter 17.06.030, Official Zoning Map of the Oregon City Municipal Code, 1991, by Changing Certain Districts; and, Final Order on File 93-04, Approval of a Plan Amendment and Zone Change for Smith/Pro West Inc. Property, was presented by the Manager. The report noted that at its December 1, 1993 meeting, the City Commission conducted a public hearing on the request for Plan Amendment and zone change for property located on the south side of S. Thayer Road east of Beavercreek Road. As a result of that public hearing, the City Commission approved the Comprehensive Plan Amendment and zone change.

On the December 15, 1993 agenda was proposed Ordinance No. 93-1027 which would amend the zoning map. Also attached was the Final Order which would allow the land use action.

Notice of proposed Ordinance No. 93-1027 was posted at City Hall, Courthouse and Senior Center by direction of the City Recorder. It was recommended that first and second readings be approved for final enactment to become effective January 14, 1994. It was further recommended that the Mayor be authorized to execute the Final Order.

It was moved by VanOrman, second by Light, to approve first reading of proposed Ordinance No. 93-1027 and to authorize the Mayor to execute the Final Order.

Roll call: VanOrman, Aye; Light, Aye; Fowler, Aye.

Second reading was called after which it was moved by VanOrman, second by Light, to approve second reading for final enactment to become effective January 14, 1994.

Roll call: VanOrman, Aye; Light, Aye; Fowler, Aye.

ORDINANCE NO. 93-1027

AN ORDINANCE AMENDING CHAPTER 17.06.030, OFFICIAL ZONING MAP, OF THE OREGON CITY MUNICIPAL CODE, 1991, BY CHANGING CERTAIN DISTRICTS

WHEREAS, public necessity and the general welfare of Oregon City require changes to certain districts, which changes have been heard by the Oregon City Planning Commission and approved by it after public notice and hearing as required by Chapter 17.50 of the 1991 City Code, and the City Commission after public hearing finding the following described property:

A part of the Washington Williams and wife DLC No. 56 in Section 9, township 3 South, Range 2 East, of the Willamette Meridian, in Clackamas County, Oregon, described as:

Beginning at a point on the north boundary of said DLC which point is south 89°55' West 1667.77 fet from the corner common to Sections 3, 4, 9 and 10, said township and range; THENCE south 751.65 feet to a point; THENCE north 89° east, 288 feet to a point; THENCE north 0° 24' west 751 feet, more or less, to a point on the north boundary of said DLC: THENCE south 89° 55' west 280 feet, more or less, to the PLACE OF BEGINNING.

The above described tract of land contains 4.71 acres (205,167 square feet), more or less, which is now zoned "R-10" Single-Family Dwelling District, which is hereby changed to "R-6/MH", Single-Family Dwelling District and the Comprehensive Plan designation which is now "LR", Low Density Residential, is hereby changed to "LR-MH", Low Density Residential/Manufactured Home.

Read first time at a regular meeting of the City Commission held on the 15th day of December 1993, and the foregoing ordinance was finally enacted by the City Commission this 15th day of December 1993.

/s/JEAN K. ELLIOTT, City Recorder

ATTESTED this 15th day of December, 1993.

/s/Daniel W. Fowler
DANIEL W. FOWLER, Mayor

Commission Report No. 93-265, Transfer of Appropriations for Fiscal Year 1993-94 - Resolution No. 93-71, was presented by the Manager. The report noted that in order to continue funding Municipal Court operations within budget limitations, funds originally appropriated within Non-Departmental Capital Outlay need to be transferred to the Municipal Court budget.

SCHEDULE OF APPROPRIATION TRANSFERS

FOR 1993-94 BUDGET

GENERAL FUND

Description	Approved Current	Increase	Decrease	Amended Budget
Municipal Court Materials/ Services (computer training)	-0-	1,650		1,650
Capital Outlay	5,000	2,500		7,500
Non-Departmental Transfer to Muni. Court Capital Outlay	20,000		4,150	15,850
	25,000	4,150	4,150	25,000

This transfer of funds is for the Local Area Network (LAN) expansion to Municipal Court and implementation of the Court software for handling cases. The total cost of the project for LAN within the General Fund was placed in Non-Departmental for control purposes pending the implementation of each phase. In order to make the transfer of appropriations as needed, it was recommended that Resolution No. 93-71 be adopted.

Scott Harper, Finance Officer, presented the staff report.

It was moved by Light, second by VanOrman, to adopt Resolution No. 93-71.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

RESOLUTION NO. 93-71

A RESOLUTION FOR TRANSFER OF APPROPRIATIONS FOR FISCAL YEAR 1993-94 FROM NON-DEPARTMENTAL CAPITAL OUTLAY TO THE MUNICIPAL COURT BUDGET

WHEREAS, ORS 294.450 provides the legal basis for transfers of appropriations within a fund; and

WHEREAS, the City Commission adopted a budget for 1993-94 and by Resolution No. 93-43 made appropriations for the current fiscal year; and

WHEREAS, the need now exists to transfer additional appropriations within the General Fund to prevent a deficit.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the Changes to Appropriations as attached and made a part hereof, be authorized.

Adopted, signed and approved this 15th day of December, 1993.

/s/Daniel W. Fowler
Mayor

Commissioner

/s/Suzanne VanOrman
Commissioner

Commissioner

/s/Robert M. Light
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Commission Report No. 93-262, Regional Emergency Management Workplan and Intergovernmental Agreement for Regional Emergency Management - Appointment of Representatives, was presented by the Manager. The report noted that at its November 17, 1993 meeting, the City Commission adopted Resolution No. 93-65 which contained the Regional Emergency Management Workplan and Intergovernmental Agreement for Regional Emergency Management.

Contained within the Intergovernmental Agreement was the need for appointment of an elected official, and an alternative, for the Policy Advisory Committee and the need for appointment of a representative to the Technical Committee. Adoption of Resolution No. 93-65 and approval of Commission Report No. 93-226 provided for the appointment of Officer William Blanchard, Police Officer and Emergency Program Manager for the City, to the Technical Committee.

Presented at this time, was the need for the Mayor to appoint an elected official and an alternate to represent Oregon City on the Policy Advisory Committee and a recommendation to appoint Deputy Chief Clark Poulton as alternate to the Technical Committee.

As a point of information, the first meeting for the Policy Advisory Committee is scheduled for Friday, February 25, 1994, 9:00 AM, at the Metro Building. A briefing for the appointee and alternate will be scheduled prior to the date of the meeting. The first meeting of the Technical Committee is scheduled for Tuesday, December 21, 1993, 2:00 PM, at the Portland Fire Bureau station on 122nd Avenue. A briefing will also be scheduled for the alternate Technical Committee appointee.

Mayor Fowler appointed Commissioner VanOrman to the Policy Advisory Committee and Poulton to the Technical Committee.

CONSENT AGENDA

The following matters were considered routine and could be adopted in one motion. Upon the call for discussion of a particular item, none was requested. It was moved by Light, second by VanOrman, to approve the Consent Agenda items as recommended on each report.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

Commission Report No. 93-267, Request to Change Street Name - Resolution No. 93-72, was presented. The report noted that recently, the Fire Department became aware that contained within the developments of Gerber Woods and Castleberry Park was a continuous street in the adjoining

developments off Meyers Road. Currently, that same street has been named Aubuchon Drive in the Gerber Woods development and Aubuchon Way and Castleberry Loop in the Castleberry Park development. This will tend to cause confusion and could delay emergency response and non-emergency deliveries to this area.

The report continued that on the December 15, 1993 agenda was proposed Resolution No. 93-72 which proposed to change the names from Aubuchon Drive, Aubuchon Way and Castleberry Loop to Castleberry Loop only. Attached was a letter from the Vice-President of Oak Brook Financial Corporation (Gerber Woods) and a letter from the President of Cedar Ridge Development, Inc. (Castleberry Park) indicating no objection to the proposed change. Also attached were responses from various Department Directors which indicate no conflict with their interests.

Based upon the information provided, it was recommended that Resolution No. 93-72 be adopted.

RESOLUTION NO. 93-72

A RESOLUTION CHANGING A STREET NAME FROM AUBUCHON DRIVE IN THE GERBER WOODS DEVELOPMENT, AUBUCHON WAY AND CASTLEBERRY LOOP IN THE CASTLEBERRY PARK DEVELOPMENT TO CASTLEBERRY ~~WAY~~ Loop.

WHEREAS, contained within the developments of Gerber Woods and Castleberry Park is a continuous street that has been named Aubuchon Drive in the Gerber Woods Development and Aubuchon Way and Castleberry Loop in the Castleberry Park development; and

WHEREAS, the continuation of the three names for the same continuous street will create unnecessary confusion for emergency responses and non-emergency deliveries to this area.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the streets now known as Aubuchon Drive in the Gerber Woods development and Aubuchon Way and Castleberry Loop in the Castleberry Park development shall be known as Castleberry Loop.

Adopted, signed and approved this 15th day of December, 1993.

/s/Daniel W. Fowler
Mayor

/s/
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/
Commissioner

/s/Robert M. Light
Commissioner

Comprising the City Commission
of Oregon City, Oregon

* * * * *

Commission Report No. 93-260, Liquor License Application - Chuck's Tavern, 1200 Main Street - Change of Ownership, was presented. The report noted that at a Special meeting of the City Commission held March 28, 1983, Commission Policy 1-7 entitled, "Approval of Liquor License Renewals" was adopted. Commission Policy 1-7 states as follows: "The Mayor is authorized to approve all liquor license renewals if these renewals are approved and recommended by the Fire and Police Departments. The approval by the Mayor can be made without City Commission

authorization. However, all new liquor license licenses shall be submitted to the City Commission for consideration."

On the December 15, 1993 agenda was an application for an OLCC liquor license for a Change of Ownership of Chuck's Tavern, 1200 Main Street from Fred B. Frost to Terry Jo Carey, 6415 NE Killingsworth #Cedar 1, Portland. Police and Fire Department investigation of the new owners reveals no information that would warrant denial of the application. Based upon the information provided, it was recommended that the application be approved.

* * * * *

Commission Report No. 93-261, November 9, 1993 Special Election - Election Results, was presented. The report noted that on Tuesday, November 9, 1993, Oregon City's Ballot Measure 3-1 which asked the question: "Should Charter prohibit City from adopting or enforcing policies based on homosexuality status or expending funds to promote homosexuality?"

The Oregon City Charter of 1982, Chapter 6, Elections, Section 27, Canvass of Returns, states in part the following: "...The results of all elections shall be entered in the record of the proceedings of the Commission. The entry shall state the total number of votes cast at the election, the votes cast for each person and for and against each proposition..."

Attached was a copy of the certified Summary of Votes Cast as prepared by the office of County Clerk and on file in the City Recorder's office. The statement shows the following:

Measure 3-1

Yes:	2,661
No:	2,381
Overvotes:	7
Undervotes:	275
Total:	5,324

This information was provided pursuant to Chapter 6, Section 27, of the Oregon City Charter of 1982.

With no further business, the meeting adjourned at 8:32 p.m. with the City Commission sitting as the Urban Renewal Agency convening an Executive Session pursuant to ORS 192.660 (1)(e) Real Property Transactions.

CHARLES LEESON, Recording Secretary

jke

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851 P.2d 595
316 Or. 374
ROSEBURG SCHOOL DISTRICT, a local government unit; G & I Investments, an Oregon Partnership; Horizon Motors, Inc., an Oregon corporation, dba Horizon Mazda; Rapat, Inc., an Oregon corporation, dba Douglas Inn; Parkway Holdings, Inc., an Oregon corporation, dba Parkway Ford; Parkway Holdings, Inc., an Oregon corporation, dba Parkway Nissan; Jack Mathis General Contractors, Inc., an Oregon corporation; Paul Jackson Wholesale Co., Inc., an Oregon corporation; Roseburg Lumber Co., an Oregon corporation; Roseburg Resources Co., an Oregon corporation; Old School Offices, Inc., an Oregon corporation; and One Champion Plaza, Inc., an Oregon corporation, Respondents,
v.
CITY OF ROSEBURG, an Oregon city, Appellant.
OTC 3242; SC S39874.
Supreme Court of Oregon, In Banc.
Argued and Submitted March 16, 1993.
Decided May 21, 1993.

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[316 Or. 375] William F. Gary of Harrang, Long, Watkinson, Laird & Rubenstein, P.C., Eugene, argued the cause for appellant. With him on the briefs was Glenn Klein.

Joel S. DeVore of Luvaas, Cobb, Richards & Fraser, P.C., Eugene, argued the cause and filed the brief for respondents.

David B. Frohnmayer, Eugene, Daniel Olsen, Hillsboro, Thomas Sponsler, Gresham, and James Coleman, Portland, filed a brief for amici curiae League of Oregon Cities and Ass'n of Oregon Counties.

Matthew R. Baines, Gresham, Jan L. Betz, Portland, Michael E. Kohlhoff, Wilsonville, and Loretta Skurdahl, Hillsboro, filed a brief for amicus curiae Oregon Ass'n of Clean Water Agencies.

E. Andrew Jordan of Tarlow, Jordan & Schrader, Portland, filed a brief for amicus curiae Special Districts Ass'n of Oregon.

[316 Or. 377] UNIS, Justice.

The issue in this case is whether a storm drainage utility fee of the City of Roseburg (City) is a "tax on property" that is subject to the limitations of Article XI, section 11b, of the Oregon Constitution, adopted in 1990 by an initiative petition commonly known as "Ballot Measure 5."

Roseburg School District and interested taxpayers (taxpayers) filed a petition under ORS 305.583, asking the Oregon Tax Court (Tax Court) to declare that City's storm drainage utility fee is a tax subject to the limitations of Article XI, section 11b, of the Oregon Constitution. Both parties filed motions for summary judgment. The Tax Court entered a summary judgment for taxpayers. Roseburg School Dist. v. City of Roseburg, 12 OTR 329 (1992).

On review under ORS 305.445, we hold that City's storm drainage utility fee is not a tax on property that is subject to the limitations of Article XI, section 11b, of the Oregon Constitution. Accordingly, we reverse the judgment of the Tax Court and remand this case to the Tax Court with instructions to enter summary judgment for City.

The current version of City's storm drainage utility fee at issue provides in part:

"A. Except as the fees may be reduced or eliminated under Subsection 5.40.050E, the obligation to pay storm

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drainage fees arises when a person responsible uses storm drainage services. It is presumed that storm drainage services are used whenever there is an improved premises.

"B. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's water utility charges shall pay the storm drainage fees set by Council resolution. If there is no water service to the property or if water service is discontinued, the storm drainage fees shall be paid by the person(s) having the right to occupy the property." RMC 5.40.050 (as amended by Roseburg Ordinance 2803 at 1-2 (July 15, 1992)). [1]

[316 Or. 378] Article XI, section 11b, of the Oregon Constitution is a limitation on taxes. [2] Article XI, section 11b(2)(b), defines a "tax" as

"any charge imposed by a governmental unit upon property or upon a property owner as a direct consequence of ownership of that property except incurred charges and assessments for local improvements." [3] (Emphasis added.)

Our task is to determine whether the storm drainage utility fee in Roseburg Municipal Code (RMC) 5.40.050 is a tax within the meaning of Article XI, section 11b.

In interpreting a constitutional provision adopted through the initiative process, our task is to discern the intent of the voters. The best evidence of the voters' intent is the text of the provision itself. Comeaux v. Water Wonderland Improvement Dist., 315 Or. 562, 568-69, 847 P.2d 841 (1993); Northwest Natural Gas Co. v. Frank, 293 Or. 374, 381, 648 P.2d 1284 (1982). [4] The context of the language of the ballot measure may also be considered; however, if the intent is clear based on the text and context of the constitutional provision, the court does not look further. See, e.g., Comeaux v. Water Wonderland Improvement Dist., supra, 315 Or. at 569, 570, 847 P.2d 841 (meaning of phrase "governmental unit" in Ballot [316 Or. 379] Measure 5 determined based on text and context of amendment). [5]

The specific question in this case is whether City's storm drainage utility fee is a tax under Article XI, section 11b(2)(b), i.e., whether it is a "charge imposed by a governmental unit upon property or upon a property owner as a direct consequence of ownership of that property." There is no dispute in this case that there was a charge by a governmental unit. The dispute centers around whether the charge either was "imposed * * * upon property" or was "imposed * * * upon a property owner as a

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direct consequence of ownership of that property."

The verb "impose" suggests more than a request for voluntary compliance, and the phrase "impose upon" carries even stronger force. [6] A charge is imposed upon property or upon a property owner and is a tax under Article XI, section 11b(2)(b), if payment of the charge is a legal obligation of that property or property owner as a direct consequence of property ownership. [7]

In this case, City structured the storm drainage utility fee in an effort to avoid the limitations of Ballot [316 Or. 380] Measure 5. [8] The charge in question is intended as "a fee for service and not a charge against property," Roseburg Ordinance 2755, Section 1(3) (June 10, 1991), and Chapter 5.40 of the RMC is to be construed in accordance with that intent, id., Section 2. Under the RMC, the person responsible for paying City's water utility charges for a particular piece of property is responsible for paying the storm drainage utility fee. RMC 5.40.050B. [9] Thus, the fee is not necessarily imposed on the owner, who may not be the

occupier of the property and responsible for its water usage.

RMC 5.40.070 [10] provides that, "[i]n addition to other lawful remedies, the city manager may enforce the collection of charges required by this chapter by withholding delivery of water to any premises where the storm drain utility charges are delinquent or unpaid," but no provision is made for the charge to become a lien against the property, as is the case, for example, with respect to the systems development charge in RMC 5.40.080. [11] RMC 5.40.090 [12] provides that a "[r]equest for water service will automatically initiate appropriate billing for storm drainage services as established in this chapter."

Although they relate to real property, City's fees for storm drainage services are

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not imposed upon real property. [316 Or. 381] There is no provision for attaching a lien against the property for non-payment of the fee, so it appears that the property itself cannot be encumbered by City as a result of non-payment of the fee. Neither are City's fees for storm drainage services imposed upon the owner of real property as a direct consequence of ownership. Although some property owners may be responsible for paying the fee, the fee is not imposed upon property owners because of their ownership of the property, but instead is imposed upon the user of the water service or upon the person with the right of occupancy, whoever that may be. [13] Moreover, under the RMC, "a person responsible [who may be the owner, but also may be someone else] may seek a reduction or elimination of the monthly charge for storm drainage service" by demonstrating that the service is not being used. RMC 5.40.050E. [14]

By its terms, Article XI, section 11b, is a limitation on only those certain forms of revenue generation that fall within its definitions. It is not a limitation on other forms of revenue generation that do not fall within its definitions. It is clear that the constitutional provision defines those charges that it limits and, by its terms, excludes from its limits other forms of revenue generation, including income taxes, sales taxes, and any other charges not imposed upon property or upon property owners as a direct consequence of property ownership. The charge at issue in this case meets neither criterion and, therefore, is not a tax within the meaning of Article XI, section 11b. [15]

The judgment of the Oregon Tax Court is reversed. The case is remanded to the Oregon Tax Court with instructions to enter summary judgment for the City of Roseburg.

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1 Before the July 15, 1992, amendments, Roseburg Municipal Code 5.40.050 provided in part:

"Except as the fees may be reduced under subsection 5.40.050D, the obligation to pay storm drainage fees arise[s] whenever there is an improved premises. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's water utility charges shall pay the storm drainage fees set by council resolution. If there is no water service to the property or if water service is discontinued, the storm drainage fees shall be paid by the person(s) having the right to possess the property." RMC 5.40.050A (as amended by Roseburg Ordinance 2755 at 6 (June 10, 1991)).

Although taxpayers have challenged both versions of the storm drainage utility fee, the differences between the two versions do not require separate analyses in this case.

2 See ORS 310.140 (codifying legislative interpretations of certain terms in Article XI, section 11b, of the Oregon Constitution).

3 Article XI, section 11b(2)(c) defines "incurred charges," and Article XI, section 11b(2)(d) defines "local improvement." Neither term is relevant to this opinion.

4 The text of a document must always be the starting point in any interpretative endeavor. See State ex rel. Juv. Dept. v. Ashley, 312 Or. 169, 174, 818 P.2d 1270 (1991) (stating rule with respect to statutes); id. at 185, 818 P.2d 1270 (Unis, J., dissenting) (same); Perlenfein and Perlenfein, 316 Or. 16, 20, 848 P.2d 604 (1993) (stating rule with respect to statutes and regulations).

5 The same is true with respect to interpreting statutes, see, e.g., Boone v. Wright, 314 Or. 135, 138-39, 836 P.2d 727 (1992) (applying rule), and with respect to regulations, see, e.g., Perlenfein and Perlenfein, supra, note 4 (meaning of administrative rules determined based on text and context of those rules).

6 The Random House Dictionary of the English Language 962 (unabridged 2d ed 1987) includes the following definitions of the verb "impose":

"1. to lay on or set as something to be borne, endured, obeyed, fulfilled, paid, etc.: to impose taxes. * * * 12. impose on or upon, a. to thrust oneself offensively upon others; intrude. b. to take unfair advantage of; misuse (influence, friendship, etc.). c. to defraud; cheat; deceive * * *." (Emphasis in original.)

Webster's Third New International Dictionary 1136 (unabridged 1976) includes the following definitions of the verb "impose":

"1. obs: charge, impute 2: to give or bestow (as a name or title) authoritatively or officially 3 a obs: to cause to be burdened * * * b(1): to make, frame, or apply (as a charge, tax, obligation, rule, penalty) as compulsory, obligatory, or enforcible * * *--impose on or impose upon 1 a: to force oneself esp. obnoxiously on (others) * * *." (Emphasis in original.)

7 By contrast, the fact that a person is allowed to pay or actually has paid a charge, with no legal obligation to do so, cannot be the basis for determining that the charge is imposed on that person. If that were the basis for the determination, it would be impossible to determine in advance of payment on whom the charge is imposed, and the task of determining whether a charge is a tax could be done only on a case-by-case basis after payment had been received.

8 The 1992 ordinance adopting the amendments to RMC Chapter 5.40 include this finding:

"If the City continued its practice before the enactment of Chapter 5.40 of the Roseburg Municipal Code (RMC) in 1989, the owners of all taxable property within the City would be bearing the burden of storm drainage services through general property taxes when it is more equitable to have those who use storm drainage services or create the demand for such service, including but not limited to developed property exempt from ad valorem taxes, bear the cost of such service." Roseburg Ordinance 2803, Finding B (July 15, 1992).

Section 4 of that ordinance also provides:

"The Council hereby classifies the fees imposed by this ordinance a fee not subject to the limits of section 11b, Article XI of the Oregon Constitution. The City Manager is directed to publish notice of this classification as required by ORS 305.583(8)."

9 This is true both under RMC 5.40.050, as amended by Roseburg Ordinance 2755 at 6 (June 10, 1991), quoted supra, 316 Or. at 377 n. 1, 851 P.2d at 597 n. 1, and under RMC 5.40.050B, as amended by Roseburg Ordinance 2803 at 1-2 (July 15, 1992), quoted supra, 316 Or. at 377, 851 P.2d at 597.

10 RMC 5.40.070 was not amended by the July 15, 1992, ordinance.

11 RMC 5.40.080 was not amended by the July 15, 1992, ordinance.

12 RMC 5.40.090 was not amended by the July 15, 1992, ordinance.

13 City represented in oral argument, and we accept, that if the person responsible for a delinquent water bill that has resulted in delivery of water being withheld leaves the premises and a new occupant enters, water services would be

restored on request with no consequence to a new occupant or to the property owner as a result of the prior person's delinquency.

14 RMC 5.40.050E was renumbered by the July 15, 1992, amendment; the phrase "or elimination" was also added, and other changes were made in accordance with that change. The changes do not affect our analysis.

15 Because we hold that the storm drainage utility fee is not a tax within the meaning of that term in Article XI, section 11b, of the Oregon Constitution, we need not and do not consider the exceptions to the meaning of the term "tax" in Article XI, section 11b(2)(b).

Evan Lee

From: John Miller <johnm@greenwayig.com>
Sent: Wednesday, September 17, 2025 11:36 AM
To: Dayna Webb
Cc: Josh Wheeler; Dan Fowler; Tony Konkol; Denyse McGriff; Rocky Smith, Jr.; Adam Marl; Mike Mitchell; Scott Wilson; City Recorder Team
Subject: Sept 17 Agenda Item 9a – Request for Deferral Until Record Is Corrected
Attachments: Living Hope Refund Approval.pdf

Some people who received this message don't often get email from johnm@greenwayig.com. Learn why this is important

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.

Hi Dayna,

I just reviewed the staff report for tonight's meeting. As written, it mischaracterizes our request and, if left uncorrected, will place the **wrong issue** before the City Commissioners tonight.

Our exemption under OCMC 13.16.100 was approved effective November 22, 2024, and that matter is settled. We are not seeking a retroactive exemption.

Our request has always been for a **refund/credit for overbilling** between our acquisition date (June 6, 2023) and the application date. As I wrote to you on July 15, 2025:

> *"We acknowledge and accept the City's application of the exemption going forward as of the November 22, 2024 request date. However, we respectfully request reconsideration of the City's position on charges assessed between our acquisition of the property on June 6, 2023 and the application date... we believe these charges were not properly applicable under the law and respectfully request that they be refunded."*

The exemption itself confirms that our property has never connected to the City's MS4. That finding necessarily establishes that all stormwater fees billed before the exemption date were **overbilling**, because they were assessed for a service that was never provided. Correcting those charges through a refund is not creating a new entitlement—it is simply aligning the billing record with the City's own determination.

This is consistent with the City's long-standing practice. In the **Living Hope Church** matter (see attached staff report), staff and the Public Works Director recommended a reimbursement based on a 30-month lookback. More generally, the City routinely applies shorter lookbacks—such as six months—when correcting billing errors. Our request for a slightly less than six-month correction is entirely within that established practice.

For that reason, we ask that Item 9a not be taken up tonight in its current form. We respectfully request that it be either:

1. Resolved administratively by staff as a billing correction, or
2. Brought back to Council at a later meeting with a corrected staff report that clearly frames the issue as a **refund for overbilling**, not a retroactive exemption.

This ensures that when the matter is addressed, the Commissioners will be deliberating on the correct question.

Best regards,

John Miller

"Enhancing Communities with Thoughtful Investment"

P. 503.969.3640
E. johnm@greenwayig.com

CITY OF OREGON CITY

Staff Report

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

To: City Commission **Agenda Date:** 1/5/2021

From: Public Works Director John M. Lewis, PE

SUBJECT:

Living Hope Church Monthly Stormwater Fee Reduction and Overpayment Reimbursement

STAFF RECOMMENDATION:

In accordance with the November 1, 2021, Director Lewis memo, authorizing the City's Finance Department to issue a 30-month lookback reimbursement in the sum of $12,909.60, Staff recommends that the City Commission support the analysis and staff determination for an overpayment reimbursement.

EXECUTIVE SUMMARY:

On July 26, 2021, the City was notified that the Living Hope Church had been charged by the City a stormwater fee that was based on 78 Equivalent Residential Units (ERU) and that this amount was not calculated correctly. The notice suggested that the City had been using an inappropriate Development Intensity Factor (DIF) instead of factor more indicative of the land. The Church requested that their monthly stormwater fee be adjusted to reflect the correct ERU. As per a November 1, 2021, memo from Public Works Director John Lewis, this adjustment request has been verified as valid and honored. The Church is now being charged a stormwater utility bill based on 38.4 ERUs.

In addition to the monthly bill correction, church members Mr. Kim Foster and Mr. Larry Marl along with correspondence from the church Paster Mr. Dwight Walker have indicated they expect the City to provide the Church with a lookback reimbursement for the 13 years and 6 months (March 2008 to September 2021) of overbilling and overpayment. Mr. Lewis, within his authority as the Department Director has approved a 30-month lookback in the amount of $12,909.60.

Before the City Commission is a question of whether the City is wishing or obligated to apply a longer lookback period and pay the Church something in addition to the 30-month reimbursement.

BACKGROUND:

The Living Hope Church property has a stormwater billing history that goes back over 32 years. During that time (July 1989 to September 2021) the utility bill has been either under billed or overbilled by the City using incorrect Equivalent Unit Rate (ERU) multipliers. In total the account has overpaid a total of $44,002.45.

Billing Period	Amount billed	What should have been billed	Overpayment/(Underpayment)
July 1989 to February 2008	$591.74	$11,302.23	($10,710.49)
March 2008 to September 2021	$107,767.92	$53,054.98	$54,712.94
		Total	$44,002.45

The City's Stormwater Utility started in July 1989 at which time the Living Hope Church included a smaller building and impervious footprint, however the ERU used for the account from July 1989 to February 2008 was 1. The correct ERU should have been calculated at 19.1. In 2008 the church completed a significant redevelopment adding on to the building and developing a paved parking lot as well as the associated stormwater and other utility improvements. This change is what triggered the application of a new ERU; however, at the time the church's ERU was calculated based on the entire area of the property being impervious rather than completing the ERU calculation using the appropriate surface type development intensity factors. As such, the stormwater fee was calculated based on 78 ERU instead of the actual ERU calculation applicable for the property which has since been established to be 38.4 ERU (2021) using runoff coefficients appropriate for the land types (Exhibit B).

On July 26, 2021, Brian Lee with Pace Engineers sent Tony Konkol an email sharing concerns about the current stormwater fee for the Living Hope Church located at 19691 Meyers Road. Brian went on to explain his finding that the ERU of 78 was not indicative of the pervious and impervious coverage of the property and he also pointed out that based on his review of OCMC 13.16.020, the City should be charging the Living Hope Church something less based on a OCMC provision that allows Conditional Use development to be charged a reduced rate by applying a Conditional Use Development Intensity Factor.

In Oregon City, church use is a conditional use development and as such working further with Brian resulted in a graphic (Exhibit A; plot date 8/12/21) which depicts four surface categories and the associated area measurements. This information was used in determining an updated Stormwater Rate for the Living Hope Church using a varied composite runoff factor calculation (Exhibit B).

Overpayment Reimbursement and the Overcharge Lookback Evaluation

The City has a longstanding practice of looking back 6 months when over billing errors are reported. Based on the City's typical lookback practice, the Living Hope Stormwater Utility Account would be credited for the maximum six months or $2,582.28 ($430.38 x 6 months).

The church member and pastor request was to look back 13 years. The OCMC does not address lookback provisions and the City Attorney was not able to find a statute or rule that directly addressed the Living Hope Church situation. However, he did offer the following, which was considered in the November 1, 2021, memo, and conclusion from Mr. Lewis:

> Mr. Kabeiseman wrote:
>
> *"I was not able to find a statute or rule that directly addressed your question below, regarding the statute of limitations, but there are three that could be applicable:*
>
> - *2 years, based on ORS 12.110, which generally governs "tort" claims for injury to persons or property. This seems like the least likely outcome, as it really doesn't seem like a tort.*
> - *3 years, based on ORS 12.100, which provides the limitation period for "official act or penalty," but (1) appears to be directed at "sheriffs or constable" and the language in subsection (2) doesn't seem quite on point either. However, the PUC has also adopted a three year period as the maximum refund when a large telecom utility overcharges a customer. OAR 860-21-0135(1)(b).*
> - *6 years based on ORS 12.080, which is the general statute of limitations on contract claims, which I assume we have with our clients.*
>
> *Having said that, OCMC 13.16.100 provides an express opportunity to seek a reduction or to appeal a charge, and the church never pursued that, so we would at least have an argument that they've waived any chance for a refund."*

To date, the church has yet to submit records supporting their lookback claim. However, we did seek out email correspondence from the City's Deputy Finance Director, Ryan Bredehoeft, who had documentation of correspondence on Church topics that traces back to February 7, 2019. In 2019, church member Dean Brown was inquiring about the City's stormwater charges and was seeking a reduction in charges. His reasoning did not bring forth the ERU overage but instead was based on his concern that the church should not need to pay a stormwater fee because in 2008 they were required to build stormwater facilities that reduced or eliminated stormwater from reaching the City's stormwater system. The ERU rate value was not raised as a concern and was not a focus by staff, nor was it raised as a concern or question until July 26, 2021. OCMC 13.16.100 provides an express opportunity to seek a reduction or to appeal a charge, however, the church had not pursued a reduction due to their ERU

rate until July 2021. As such, essentially this code provision is not perfectly applicable.

Despite the details of the church's 2019 inquiry, and to rectify what is a real overcharge, rather than using the City's lookback practice of six months, it was determined that the lookback period should be extended to include 30 months. This includes stormwater fee overcharges back to and including March 2019, which is the first billing period after the church representative Dean Brown broached the topic of excessive stormwater charges with the City. This 30-month lookback includes stormwater fees collected in the amount of $25,428 using the 78 ERU multiplier, and then applying the 38.4 ERU multiplier resulting in the corrected stormwater fees which would have been $12,518.40. The difference of $12,909.60 is the total amount of the lookback overcharge and will be paid via reimbursement check.

The Church is pressing for a full refund looking back to 2008 as the Living Hope Church congregation is made up of young families through retirees, with everyday occupations such as our teachers, nurses, electricians, produce managers, business owners, executives, technicians, maintenance workers, bus drivers, and engineers, among many other such professions. The assertion is members were freely giving their hard-earned money for the benefit of the Oregon City community, with the expectation that their donations were going to serve residents or homeless, houseless, and food insecure teens to women's health care, and that money owed can best support making Oregon City a better place to live, and work.

OPTIONS:

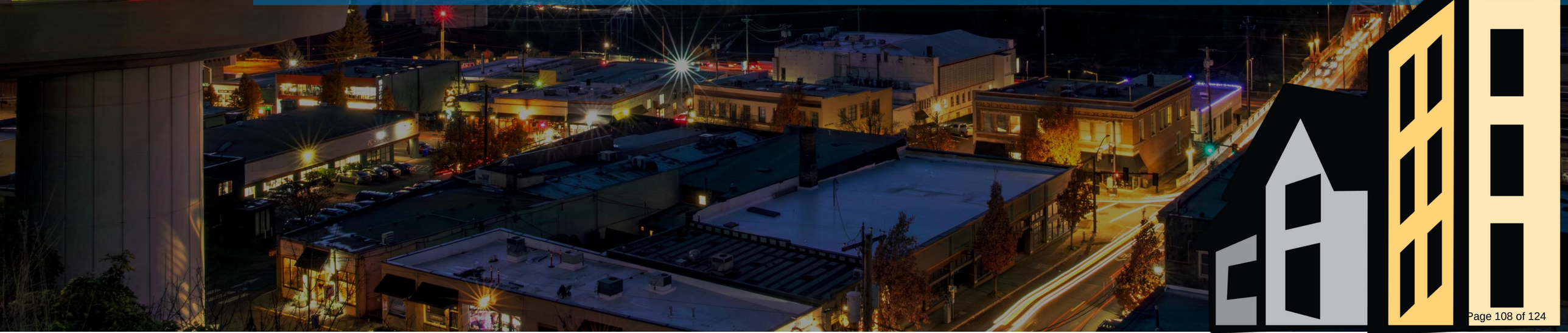
1. Move to approve an amount in addition to the $12,909.60 already paid.

2. Move to approve the amount requested by the church using a 13 year and 6 month lookback for a total reimbursement of approximately $54,712.94; the actual amount will need to validated by the Finance Department.

3. Defer the decision and continue the matter to a future meeting to address concerns beyond what the City Commission feels can be addressed tonight. If this option is selected, direct staff on the kind of information of interest for further consideration.

Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek

September 17, 2025



Background

- Nov. 22, 2024 – City received Stormwater Fee Exemption Request. Staff reviewed past cases, consulted with City Attorney.
- Jan. 3, 2025 – Requested engineer-stamped drawings to confirm no site-generated stormwater enters public system.
- June 3, 2025 – Superior Excavation certified all onsite drainage flows directly to Abernethy Creek.
- July 11, 2025 – Granted exemption effective Nov. 22, 2024 (date of request); owner required to pay outstanding fees.
- July 15, 2025 – Owner accepted exemption from Nov. 22, 2024 but requested reconsideration back to property acquisition date (June 2023).

13.16.100 Exemptions, reductions and appeal.

- Vacant and unimproved properties within the city are exempt from the charges in Section 13.16.050. Any other person seeking an exemption or reduction in the storm drainage fee, or appealing therefrom, may do so pursuant to a demonstration to the city manager or the manager's designee that the public storm drain service does not receive stormwater from property used or occupied by that person. Such demonstration shall include evidence of legal disposal of stormwater to a private retention system, private storm drain system, public water body, or other receiving facility.

Property Map

Area A = 52.44 ERU

Area B = 71.27 ERU

Area C = 152.74 ERU

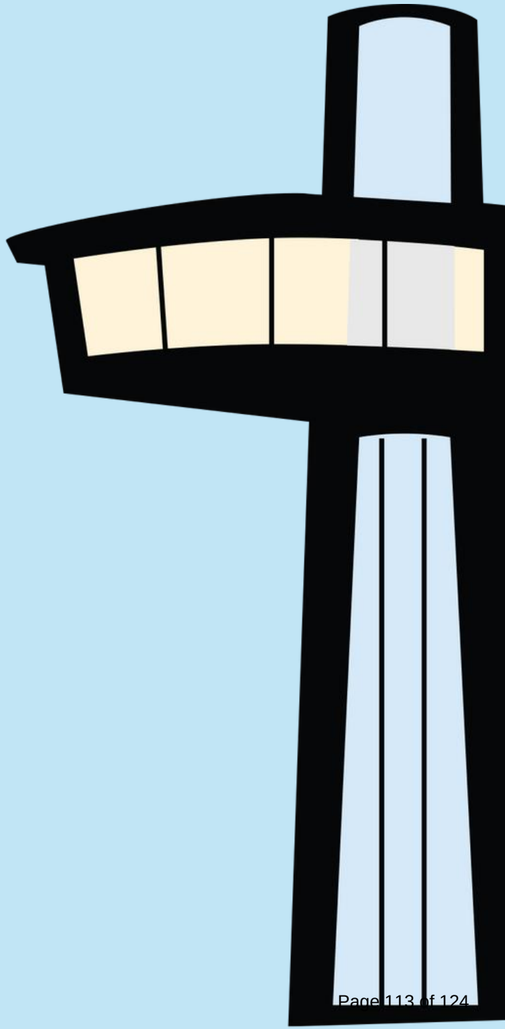
Area D = 30.55 ERU

Fee Summary

Bill Date	Rate Code	Service Start Date	Service End Date	Area A The Blue at Abernethy Creek (Owner) 1010 Abernethy Rd *Acct #07-664655-00* *52.44 ERU* Total Dollars	Area B The Blue at Abernethy Creek (Owner) 1030 Abernethy Rd *Acct #07-663300-06* *71.27 ERU* Total Dollars	Area C Classic Collision (Tenant) 1080.5 Abernethy Rd *Acct #07-663611-00* *152.74 ERU* Total Dollars	Area D Classic Collision (Tenant) 1090 Abernethy Rd *Acct #07-663301-03* *30.55 ERU* Total Dollars
06/30/2025	Storm - per ERU	04/30/2025	05/31/2025	$ 774.54	$ 1,052.66	$ 2,255.97	$ 451.22
05/31/2025	Storm - per ERU	03/31/2025	04/30/2025	774.54	1,052.66	2,255.97	451.22
04/30/2025	Storm - per ERU	02/28/2025	03/31/2025	774.54	1,052.66	2,255.97	451.22
03/31/2025	Storm - per ERU	01/31/2025	02/28/2025	774.54	1,052.66	2,255.97	451.22
02/28/2025	Storm - per ERU	12/31/2024	01/31/2025	774.54	1,052.66	2,255.97	451.22
01/31/2025	Storm - per ERU	11/30/2024	12/31/2024	717.38	974.97	2,089.48	417.92
12/31/2024	Storm - per ERU	11/22/2024	11/30/2024	191.30	259.99	557.19	111.45
		Approved Exemption back to 11/22/24		**$ 4,781.38**	**$ 6,498.26**	**$ 13,926.52**	**$ 2,785.47**
12/31/2024	Storm - per ERU	10/31/2024	11/22/2024	$ 526.08	$ 714.98	$ 1,532.29	$ 306.47
11/30/2024	Storm - per ERU	09/30/2024	10/31/2024	717.38	974.97	2,089.48	417.92
10/31/2024	Storm - per ERU	08/31/2024	09/30/2024	-	2,881.97	580.41	-
09/30/2024	Storm - per ERU	07/31/2024	08/31/2024	-	3,378.96	-	-
08/31/2024	Storm - per ERU	06/30/2024	07/31/2024	-	3,378.96	-	-
07/31/2024	Storm - per ERU	05/31/2024	06/30/2024	-	3,378.96	-	-
06/30/2024	Storm - per ERU	04/30/2024	05/31/2024	-	3,378.96	-	-
05/31/2024	Storm - per ERU	03/31/2024	04/30/2024	-	3,378.96	-	-
04/30/2024	Storm - per ERU	02/29/2024	03/31/2024	-	3,378.96	-	-
03/31/2024	Storm - per ERU	01/31/2024	02/29/2024	-	3,378.96	-	-
02/29/2024	Storm - per ERU	12/31/2023	01/31/2024	-	3,378.96	-	-
01/31/2024	Storm - per ERU	11/30/2023	12/31/2023	-	3,127.02	-	-
12/31/2023	Storm - per ERU	10/31/2023	11/30/2023	-	3,127.02	-	-
11/30/2023	Storm - per ERU	09/30/2023	10/31/2023	-	3,127.02	-	-
10/31/2023	Storm - per ERU	08/31/2023	09/30/2023	-	3,127.02	-	-
09/30/2023	Storm - per ERU	08/18/2023	08/31/2023	-	1,311.33	-	-
		Additional Exemption Requested (prior to 11/22/24)		**$ 1,243.46**	**$ 45,423.01**	**$ 4,202.18**	**$ 724.39**
			Account Balance as of 8/8/25	$ 6,024.84	$ 28,345.70	$ 821.86	$ 19.75
			Total storm credit with full exemption request	6,024.84	51,921.27	18,128.70	3,509.86
			Refund to customer	$ -	$ (23,575.57)	$ (17,306.84)	$ (3,490.11)
			Account Balance as of 8/8/25	$ 6,024.84	$ 28,345.70	$ 821.86	$ 19.75
			Storm credit exemption already approved	4,781.38	6,498.26	13,926.52	2,785.47
			Remaining account balance (refund to customer)	$ 1,243.46	$ 21,847.44	$ (13,104.66)	$ (2,765.72)

OPTIONS:

- Maintain the exemption effective November 22, 2024 (date of request).
- Extend the exemption back to the acquisition date of the property (June 2023).



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

CITY OF OREGON CITY

Staff Report

To:	City Commission	**Agenda Date:**	October 1, 2025
From:	Dayna Webb, Public Works Director Tony Konkol, City Manager		

SUBJECT:
Item 9.b. - Sidewalk Repair/Replacement Permit Reimbursement Discussion

STAFF RECOMMENDATION:
City Commission provides staff direction Sidewalk Repair/Replacement Permit Reimbursement.

EXECUTIVE SUMMARY:
Staff have prepared the information requested at the September 17, 2025 City Commission meeting.

BACKGROUND:
At the September 17, 2025 City Commission Meeting, it was requested that staff return with information on the number and dollar value of permits issued since this the bulk of tripping hazards reporting began.

Issued Sidewalk Repair/Replacement Permit Summaries have been provided as attachments for two different time frames. The summaries include a break-down of the number and type of permits issued citywide and by the Neighborhood Association. Additionally, the Total Permit Revenue is included as a total, and also by the Neighborhood Association.

The following is a high level overview of the Summaries:

Time Frame	May 23, 2025 - September 12, 2025	October 12, 2023 - September 12, 2025
Number of Permits Issued	48	170
% Issued to Property Owner	50%	58%
Total Permit Revenue	$7,862.00	$25,580.0

Staff have reviewed the permit fee and find it to be reasonable given the scope of the work involved. In fact, the current permit fee does not fully cover the staff time and resources required to support this process; the City subsidizes a portion of these costs in order to assist property owners and support public safety. For each identified tripping hazard, the

following steps are undertaken:

- A site visit is conducted to confirm the presence of a tripping hazard.
- If a hazard is confirmed, the location is documented and the property owner is sent an initial notification letter. As required by the Municipal Code, this letter must be sent via certified mail, which incurs an additional cost.
- Staff offer to meet the property owner on-site to review potential remediation options.
- Staff assist the property owner with the permit application and issue the permit.
- Following completion of the work, staff conduct a final inspection to ensure compliance with applicable standards.

If the City Commission would like to reimburse permit fees, staff proposes the following and is looking for feedback on this process:

- City Commission to provide direction on how far back to issue reimbursements.
- City staff proactively contacts all permit holders by mail, notifying them they are eligible for a permit fee refund. This notice will include instructions on how to claim a reimbursement.
- Many of the permits were issued to contractors. It is staff's understanding that you would like the reimbursement to be issued to the property owner, even in the case of the permit being issued to the contractor. Staff believes it can be implied that the owner paid for the permit as part of the amount paid to the contractor. For permits issued to the contractor, the property owner shall provide proof of payment to the contractor for the work.
- The person or entity receiving the funds will need to complete a W-9 which allows the city to issue them a check.

Over the years, multiple tripping hazards have been reported across various neighborhoods. Below is a summary of the most significant instances:

- McLoughlin Area:
    - 44 properties reported October 4, 2023 to May 22, 2025 and
    - 59 properties reported May 23, 2025 to present
- Sophia/Emerson: 8 properties reported in 2023-2024
- Conway Drive:
    - 35 properties reported in April & May 2024
    - 24 properties reported in March 2020
- South End Road Area: 3-10 properties reported per periodic complaint
- Trailview: 44 properties reported in April 2021
- Nevin Court: 17 properties reported across three periods: October 2015, August

2017 & March 2018

Attached is a Summary of Communications Related to Sidewalks in 2025, which provides an overview of the meetings where this topic has been discussed.

OPTIONS:
Provide Staff feedback on next steps.

BUDGET IMPACT:
Reimbursement will be determined by the City Commission. The source of funding will be the General Fund contingency.

OREGON CITY PUBLIC WORKS

Issued Sidewalk Repair/Replacement Permit Summary

May 23, 2025 to September 12, 2025*

	Total	Canemah	Caufield	Elyville	Gaffney Lane	Hazel Grove/Westling Farm	Hillendale	McLoughlin	Park Place	Rivercrest	South End	Tower Vista	Two Rivers
Contractor Obtained	**24**	0	2	0	2	5	0	15	0	0	0	0	0
Property Owner Obtained	**24**	0	0	0	0	3	0	19	0	1	0	1	0
Total Permits Issued	**48**	**0**	**2**	**0**	**2**	**8**	**0**	**34**	**0**	**1**	**0**	**1**	**0**
Single Permit	**25**	0	0	0	0	4	0	19	0	1	0	1	0
Single Permit (Tree)	**22**	0	2	0	1	4	0	15	0	0	0	0	0
Group Permit	**1**	0	0	0	1	0	0	0	0	0	0	0	0
Group Permit (Tree)	**0**	0	0	0	0	0	0	0	0	0	0	0	0
Total Permits Issued	**48**	**0**	**2**	**0**	**2**	**8**	**0**	**34**	**0**	**1**	**0**	**1**	**0**
Single Permit	**$5,175.00**	$0.00	$0.00	$0.00	$0.00	$828.00	$0.00	$3,933.00	$0.00	$207.00	$0.00	$207.00	$0.00
Single Permit (Tree)	**$2,274.00**	$0.00	$207.00	$0.00	$103.50	$413.50	$0.00	$1,550.00	$0.00	$0.00	$0.00	$0.00	$0.00
Group Permit	**$413.00**	$0.00	$0.00	$0.00	$413.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Group Permit (Tree)	**$0.00**	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Total Permit Revenue	**$7,862.00**	**$0.00**	**$207.00**	**$0.00**	**$516.50**	**$1,241.50**	**$0.00**	**$5,483.00**	**$0.00**	**$207.00**	**$0.00**	**$207.00**	**$0.00**

*May 23, 2025 was selected as that is the date following the large batch of tripping hazards identified in McLoughlin Neighborhood.

OREGON CITY PUBLIC WORKS

Issued Sidewalk Repair/Replacement Permit Summary

October 12, 2023 to September 12, 2025*

	Total	Canemah	Caufield	Elyville	Gaffney Lane	Hazel Grove/Westling Farm	Hillendale	McLoughlin	Park Place	Rivercrest	South End	Tower Vista	Two Rivers
Contractor Obtained	**71**	1	6	2	5	9	1	24	7	3	2	10	1
Property Owner Obtained	**99**	0	8	8	7	14	3	36	2	6	5	6	4
Total Permits Issued	**170**	**1**	**14**	**10**	**12**	**23**	**4**	**60**	**9**	**9**	**7**	**16**	**5**
Single Permit	**73**	0	6	4	4	11	3	26	2	3	5	6	3
Single Permit (Tree)	**93**	1	7	6	8	12	1	32	6	6	2	10	2
Group Permit	**4**	0	1	0	0	0	0	2	1	0	0	0	0
Group Permit (Tree)	**0**	0	0	0	0	0	0	0	0	0	0	0	0
Total Permits Issued	**170**	**1**	**14**	**10**	**12**	**23**	**4**	**60**	**9**	**9**	**7**	**16**	**5**
Single Permit	**$14,727.00**	$0.00	$1,186.00	$788.00	$804.00	$2,197.00	$605.00	$5,262.00	$406.00	$605.00	$1,011.00	$1,242.00	$621.00
Single Permit (Tree)	**$9,331.00**	$99.00	$702.00	$620.00	$814.50	$1,185.00	$99.00	$3,217.50	$607.00	$595.00	$207.00	$991.00	$194.00
Group Permit	**$1,522.00**	$0.00	$413.00	$0.00	$0.00	$0.00	$0.00	$696.00	$413.00	$0.00	$0.00	$0.00	$0.00
Group Permit (Tree)	**$0.00**	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Total Permit Revenue	**$25,580.00**	**$99.00**	**$2,301.00**	**$1,408.00**	**$1,618.50**	**$3,382.00**	**$704.00**	**$9,175.50**	**$1,426.00**	**$1,200.00**	**$1,218.00**	**$2,233.00**	**$815.00**

*October 12, 2023 was selected as the date following the first tripping hazards that were identified in McLoughlin Neighborhood.

OREGON CITY

Public Works

13895 Fir Street | Oregon City OR 97045
Ph (971) 204-4601

MEMORANDUM

To: City Commission
From: Dayna Webb, PE – Public Works Director
Subject: Summary of Communications Related to Sidewalks in 2025

Following is an overview of the communications with City Commission related to Sidewalks in 2025.

June 4, 2025 Meeting
On June 4, 2025, the City Commission heard public testimony concerning sidewalk maintenance and requested City staff provide an update at the work session on June 10, 2025.

June 10, 2025 Work Session
The City Attorney provided a Sidewalk Enforcement and Replacement memo to City Commission. City Commissioners provided feedback to staff during that work session.

July 8, 2025 Work Session
Staff answered Commission questions as well as providing further details of the program including sidewalk maintenance, permitting, methods, and the reimbursement program. Four topics were discussed at the meeting, which included:

1. Timeline to obtain permit and complete the repair work: Commission provided feedback to return with Code Amendments to move forward with aligning the code with current practice. That code amendment is presented as a separate topic at this meeting.
2. Enforcement letters: No edits were presented by Commission
3. Addition of Substandard Sidewalk Thickness Criteria: There was not support for modifying the current sidewalk program to include non-tree sidewalks within the program.
4. Consider allowing grinding of sidewalks through the permit process: There was support for allowing grinding, and staff have updated our documents to allow additional grinding.

August 6, 2025 Meeting
During public comment on August 6, 2025, community members raised concerns again about the impacts to the neighborhood related to the requirement for sidewalk repairs.

August 20, 2025 Meeting

At the August 20, 2025 meeting the following ideas were mentioned for continued discussion:

1. Group Permits
    a. Group Permits were added to the fee schedule in 2022 as part of the Sidewalk Reimbursement Assistance Program. Group permits are used for three or more properties. The applicant for a group permit can be the contractor or one of the property owners.
2. Current Permits Costs for Sidewalks (grinding or replacement)
    a. Single Permit: $207
    b. Single Permit under the Sidewalk Reimbursement Assistance Program: $103
    c. Group Permit: $413
    d. Group Permit under the Sidewalk Reimbursement Assistance Program: $206
3. Waiver of Permit Fees for a certain amount of time
    a. Fees are established by Resolution. A modification or temporary waiver of permit fees will require adoption of a Resolution.
    b. Staff will provide an overview of the implications of establishing a temporary waiver of permit fees.
4. Pay City to Replace the Panels as Part of a Larger Project
    a. If the project cost increases to over $50,000 the project would be subject to Bureau of Labor Industries (BOLI) prevailing wage rates. In this scenario, the same project would cost more if delivered by the City than if delivered by property owners.
5. Incrementally Assist with Multiple Panels
    a. If a homeowner has more than a certain number of panels to replace, six for example, only a certain number would need to be replaced each year.
    b. Staff is looking for more feedback on what this program may look like.
6. Short Term No Interest Loan from City
    a. The City would provide short term no interest loans to property owners to be paid back within a specified amount of time.
    b. Staff will provide high-level information on options for creating a program and will request feedback on program parameters.
    c. An alternative to providing a short term no interest loan may be to expand the time that a property owner has to complete the work.
7. Condition of City-Owned Sidewalks
    a. Staff will provide an overview of our work to date on condition assessment and replacement of city-owned sidewalks.

September 3, 2025 Meeting

Based on feedback from the August 20, 2025 meeting, staff prepared the following items for City Commission review and approval:

- Resolution No. 25-30, Modifying the Engineering Fee Schedule to waive all Public Street Sidewalk Permit Fees from Monday, September 15, 2025 through Friday, November 14, 2025, which was approved.
- First Reading of Ordinance No. 25-1010, adopting amendments to the Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places. This code amendment increased the validity of the permit from 90 days to 180 days, which was approved.

September 17, 2025 Meeting
With the approval of the First Reading of Ordinance No. 25-1010, it was brought back for the Second Reading. It was approved, and the ordinance is effective as of October 17, 2025.

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

CITY OF OREGON CITY

Staff Report

To:	City Commission	**Agenda Date:**	October 1, 2025
From:	Kyle Christoph, Facilities Manager		

SUBJECT:
Item a. - Street Tree Replacement

STAFF RECOMMENDATION:

EXECUTIVE SUMMARY:

Sidewalks abutting the 624 7th Street (Fire Station) and 629 6th Street (Ermatinger House) properties received notifications for tripping hazards. Permits were obtained to remove compromised sidewalk slabs and identify the extent of tree root infiltration. It was determined that the trees at 629 6th St. could be trimmed and remain in place, but the trees at 624 7th St. would need to be removed and replaced by approved street trees. Both sets of trees had been planted in approximately 2001 based on GIS photos. The size of the trees are under 18" in diameter and subject to approval by Street Tree Removal and Replacement Permits, but staff is bringing this to the attention of the Commission due to the public nature and visibility of the location.

BACKGROUND:

Upon removal of the concrete sidewalk slabs, an arborist from Mr. Tree was contacted to review the viability of the existing trees with new sidewalk pours. Existing trees at the 629 6th Street sidewalks were determined to have lateral roots that could be lightly trimmed and maintain an appropriate re-pour of the slab depth for a new sidewalk, without causing catastrophic tree damage.

Existing street trees at 624 7th Street were determined to have lateral roots of a diameter and extended length that would not allow for a new sidewalk slab to be poured directly over them. It was also determined that they were impinging on traffic light controls. Extension of lateral roots to further locations necessitated an expansion of the slab removal. Current street trees are red maples which are no longer approved for the 5' planting strip locations. Next steps for the removal of the trees on 7th include obtaining necessary permits, grinding and removing lateral and tap roots and preparing tree wells with root barriers for new approved street trees. Sidewalks will be re-poured to an appropriate depth for the highest standards of longevity. The proposed replacement trees are Summer Sprite Lindens, which reach estimated heights of 20' with 15' canopy spreads.

Two Hinoki Cypresses will also be removed at 624 7th Street due to growth that has disabled the irrigation system and threatens the integrity of the building foundation. These

trees will not be replaced due to lack of viable planting space next to the building.

OPTIONS:

BUDGET IMPACT:

Amount	Current Concrete Work $9,825 Tree removal and replanting $4,800 (plus cost of selected tree from approved list)
Fiscal Year(s):	2025
Funding Source(s):	General Government 100-190-6122