

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY APRIL 13, 2020 6:00 PM

6:00 PM - The Lincoln City Council meeting for April 13, 2020 will be held via Zoom. The City Council Chambers will be open and the meeting will be broadcast live in the Council Chambers. It will also be live on Channel 4 and through streaming on the web at www.lincolncity.org.

Public comments can be submitted to publiccomment@lincolncity.org and those comments will be read aloud during the either the public comment portion of the agenda, or will be read as testimony as it relates to a Public Hearing/Public Comment agenda item. The City Recorder will be provided a copy of the comments for the official record.

Citizens present in the Council Chambers will be given the opportunity to comment via Zoom. Laptops will be set up for those comments. Citizens present in the Council Chambers will be required to observe social distancing. A member of the Information Technology staff will be present during the meeting to assist with any technical issues.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Cathy Steere, City Recorder, 541-996-1203.

The Lincoln City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

All information for this meeting is available at www.lincolncity.org under "Agenda, Packets & Video". This meeting will be televised live on Channel 4. For additional rebroadcast times, please consult the Channel 4 guide on the hour.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Work Session – December 2, 2019 9:00 AM
2. Regular Meeting – Minutes of Work Session – December 10, 2019 9:00 AM
3. Regular Meeting – Minutes of Regular Meeting – February 10, 2020 6:00 PM
4. Regular Meeting – Minutes of Regular Meeting – February 24, 2020 6:00 PM
5. Regular Meeting – Minutes of Regular Meeting – March 9, 2020 6:00 PM

E. COUNCIL DELIBERATIONS

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

G. PRESENTATIONS

H. PUBLIC HEARINGS / PUBLIC COMMENTS

6. Public Comment on Resolution 2020-05 (mobile food unit fees)
7. Public Comment on Resolution 2020-07 (Composting)

I. ORDINANCES

8. ORDINANCE NO. 2020-09 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 8 (HEALTH AND SAFETY), ADDING CHAPTER 8.11 (NUISANCE – POLYSTYRENE FOAM)
9. ORDINANCE 2020-11 AN ORDINANCE OF THE CITY OF LINCOLN CITY ACCEPTING THE TRANSFER OF A PORTION OF LOGAN ROAD, LINCOLN COUNTY ROAD #100, FROM LINCOLN COUNTY, OREGON PURSUANT ORS 373.270(5)(b) AND LINCOLN COUNTY ORDER 2-20-55.

J. RESOLUTIONS

10. RESOLUTION NO. 2020-05 A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING APPLICATION FEES AND CHARGES FOR MOBILE FOOD UNITS (LICENSE AND LAND USE) AND ESTABLISHING PARKS CONCESSION FEES AND CHARGES
11. RESOLUTION NO. 2020-07 A RESOLUTION OF THE CITY OF LINCOLN CITY AUTHORIZING THE ESTABLISHMENT OF A MANDATORY RESIDENTIAL COMPOSTABLES COLLECTION PROGRAM AND ADOPTING RATES

K. SPECIAL ORDER OF BUSINESS

12. Public Arts Committee Artist Finalist Recommendation
13. ORDER NO. 2020-01 AN ORDER APPROVING A SIX MONTH LEASE EXTENSION FOR MCKAY'S MARKET, INC.
14. Annex 2020-01/CPA&ZC 2020-02 Woods Annexation - annex 11.15 acres into City of Lincoln City with a comprehensive plan map and zoning designation of R-1-5 (Single-Family Residential).
15. CPA&ZC 2020-01 Scrutton zone change - request to rezone approximately 2.06 acres from Multiple-Family Residential to Recreation-Commercial with a corresponding comprehensive plan map change to Commercial-Recreation District
16. Resolution 2020-08: Budget Transfers for FY2019-20
17. Council Priorities and Goals
18. COVID-19 Potential Aid
19. New Name for the Villages at Cascade Head

L. CITY MANAGER/CITY ATTORNEY REPORTS

M. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

N. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

- O. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL**
- P. ADJOURNMENT**
- Q. MINUTES APPROVAL**

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF WORK SESSION MEETING

December 2, 2019, 9:00 AM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE: _____

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	9:00 AM
Judy Casper	Councilor Ward 3	Present	9:00 AM
Diana Hinton	Councilor Ward 1	Present	9:00 AM
Riley Hoagland	Councilor Ward 2	Present at	10:19 AM
Diane Kusz	Councilor Ward 2	Present	9:00 AM
Rick Mark	Councilor Ward 3	Present	9:00 AM
Mitch Parsons	Councilor Ward 1	Present	9:00 AM

Ron Chandler, City Manager; Richard Appicello, City Attorney; Cathy Steere, City Recorder; Jerry Palmer, Police Chief; Alison Robertson, URA Director; and Stephanie Reid, City Engineer.

2. DISCUSSION ITEMS

July 4, 2019 Fireworks - Mr. Chandler distributed a letter from Janet Knife with regard to Fireworks, and used a PowerPoint presentation to present this item. Reviewed was the number of officers and beach vehicles deployed during July 4 celebration.

Mr. Chandler advised that the City is looking for additional used beach patrol vehicles. Discussed was confiscation/seizing of fireworks, training of volunteers, difficulty in identifying the individual that lit the fuse and particularly at night,

Discussed were the tools available for the police to use which are confiscate, arrest and citation. Mr. Appicello spoke on arrest vs. citation offenses related to July 4 violations, and criminal vs. non-criminal citations. Officers may now issue a non-criminal citation in lieu of arrest.

Mr. Chandler advised that Chief Palmer and Mr. Appicello will work with the officers to be sure they have a clear understanding of the options. Chief Palmer notes the difficulty with documenting the evidence, the witnesses, and creating the report that takes time away from other duties. Discussed was keeping the

enforcement lights going at all times during a stop and/or on the beach, the tracking of confiscated fireworks, legal fireworks on the beach which is illegal, fireworks and effects on pets, and then illegal fireworks on and off the beach.

Next discussed was marketing campaign with regard to both illegal fireworks and more notification of the licensed legal fireworks displays, and the 4 large licensed legal fireworks displays. Also discussed was using social media, billboards, and electronic signs to educate visitors.

Mr. Chandler discussed the costs associated with digital light shows as opposed to fireworks displays, and reviewed information from other jurisdictions on fireworks. Also discussed was using motels for educating visitors (providing handouts).

David Jamieson, resident of Roads End, spoke on fireworks in the neighborhood and the appearance of a lack of action by the City to enforce. He supports the actions discussed and/or proposed.

Mayor Anderson spoke of the fundraising opportunities to non-profits for beach cleanup, and Mr. Jamieson, a member of the public/audience, and spoke on other businesses that contribute to beach cleanup after July 4 event.

10:16 am - Councilor Hoagland now present for the meeting.

Gas Tax

Mr. Chandler presented, and notes that a copy of the proposed ordinance is not included, however he will send it to each if they wish to look at it, and Mayor Anderson notes the reason this is now a topic is that the Budget Committee 2019 asked that they City review a proposed gas tax. Mr. Chandler reviewed the state gas tax in other jurisdictions, noting that Oregon rates the 5th highest in the nation for a state gas tax. Mr. Chandler spoke on other tax revenue sources.

10:30 am - Councilor Mark left the meeting.

Mr. Chandler reviewed budget expenditures and revenues for street capital, and cities that have adopted a local option gas tax and the amount of their tax. Reviewed was who enforces or is the administrator of a local option gas tax (Finance Department), and if there is requirement for the tax to be earmarked. Question arose as to why Lincoln City's fuel prices are higher than Newport, the need to know the cost breakdown, and how do you convince Lincoln City residents to vote for the tax. Suggested was a tax on electric charging stations, and discussion on the EV charging stations, and that Tesla charging stations are only for Tesla vehicles. Discussed was election costs to bring the tax before the voters; what the statistical information is specifically for Lincoln City. Discussed was the history of Lincoln City and gas tax before the voters, and the difficulty in obtaining statistical information as to gas usage specifically for Lincoln City.

Discussion held as to Urban Renewal boundary and tax increment financing. Mr. Appicello cautioned defining narrow specific purposes for use of the gas tax revenue. Also discussed was the increase in tourist traffic and the need to reduce congestion. More information will be obtained as to Consensus is for 2-tier system, and staff will obtain the election time frame dates, check into an informational campaign, obtaining the number of gallons, and budgetary impact to residents. Staff to gather information for Council.

Miles Schlesinger, Planning Commissioner and member of the public was allowed to speak, and is in support of a gas tax.

Construction Excise Tax

Mr. Chandler presented information on the construction excise tax, information on building permits issued in Lincoln City, and a handout on affordable housing was distributed. Discussed was using City-owned vacant homes for homeless families with children - possibly through Family Promise.

Discusses was The Villages at Cascade Head and using a portion of the revenues coming back to Lincoln City, designating a portion of the revenues for housing projects. Ms. Robertson spoke about housing, and that she is working on the housing needs analysis update; spoke on housing/housing projects in general, and notes the construction excise tax is another funding tool to consider.

Mr. Chandler explained that the construction excise tax (in workforce housing fund) that might be used for down payment assistance, used for the purchase of property, to help with Proud Ground, and/or to apply for GAP Loans. Discussed was system development charges with regard to square footage, who pays the excise tax and how the amount is determined, and how the construction excise might affect affects building.

Concern with adding the cost of an excise tax to the construction cost expressed, that in turn raises the cost of the home. Council consensus is not to impose a construction excise tax. Mayor Anderson spoke on the deferred taxes that Lincoln City already gives up to help subsidize building. Mr. Chandler spoke on land trusts, and the placing the City's 9 small lots up for sale.

Excise Tax - Consensus is not to propose a construction excise tax.

Fireworks - Go forward with plan as laid out, and Mr. Chandler will check on several items.

Gas tax - put together some information with regard to timing, how it all works, better refine the numbers, and bring the information back to Council.

3. ADJOURNMENT

Mayor Anderson adjourned the meeting at 12:23 pm.

DICK ANDERSON, MAYOR

ATTEST:

**CATHY STEERE, MMC
CITY RECORDER**

LINCOLN CITY COUNCIL

WORK SESSION/FIELD TOUR MEETING MINUTES

December 10, 2019, 9:00 AM

The City Council for Lincoln City held a Work Session meeting and tour on Tuesday, December 10, 2019, 9:00 am. The meeting was opened at City Hall, and continued through the tour in the field. The meeting was audio recorded and is available on the City website at www.lincolncity.org.

APPROVED BY CITY COUNCIL

DATE: April 13, 2020

- 1. CALL TO ORDER** – *The Work Session meeting was called to order by Mayor Dick Anderson.*

ROLL CALL

Attendee Name	Title	Status	Arrived
Riley Hoagland	Councilor Ward 2	Excused	
Diane Kusz	Councilor Ward 2	Excused	
Diana Hinton	Councilor Ward 1	Present	9:00 AM
Judy Casper	Councilor Ward 3	Present	9:00 AM
Rick Mark	Councilor Ward 3	Present	9:00 AM
Mitch Parsons	Councilor Ward 1	Present	9:00 AM
Dick Anderson	Mayor	Present	9:00 AM

Staff Present:

Also present were Ron Chandler, City Manager; Courtney Liberator, Executive Assistant to City Manager; Jeanne Sprague, Parks and Recreation Director; Laurel Barton, Roads End resident; Patty Kroen, Planning Commissioner; Jodi Mescher, URA Economic Development Coordinator; and Stephanie Reid, City Engineer.

2. DISCUSSION ITEMS

A. City Council Work Meeting with Site Visits

Rich Belloni, Facilities Director for Lincoln County School District provided information to Council members at the site of the Lincoln County School District Property (bus parking area) and bus building.

Mr. Belloni said the school district would like to work with the City with regard to a proposed road through the area. Discussed were comments from locals, relayed by Councilor Hinton, noting the busses are traveling too fast through the area. Mr. Belloni advised that he will check on it.

Maplewood Subdivision - Council viewed the landscaping, and the kiosk with contact information. The City owns the largest property of the development, which includes the common area to which the City has been maintaining. Laurel Barton, resident, notes the City has been taking good care of any issues. Mr. Chandler advises that Cascara Court is a private road, and confirmed that Fernwood (Rd) is developed, it too will be a private road if the City chooses. Discussed were the homeowner's association dues, and it was noted that the residents are not sharing in the costs at this time. Jeanne Sprague showed areas that are maintained by Public Works, and which area is under Parks. Ms. Barton notes the hill receives little to no maintenance. There are currently 6 duplex style buildings in this subdivision.

Fernwood Subdivision - The plat for this area calls for town-houses. The City entered into an exclusive negotiation agreement with an association. Water and sewer is in and conduit in place for other utilities.

Villages Future Land Use Map, Recreation Resort Mixed Use area - The Villages at Cascade Head – Viewed was the protected Sitka Spruce, the area is for commercial development for resort type activity, and this area protects views of the corridor. Viewed was the parking area, proposed trailhead, trail, proposed additional 35 acres into Open Space, location of the Palisades development in relation to The Villages at Cascade Head. Ms. Sprague showed on a map the 3 trails to The Knoll. Noted was that the only trails the City advertises are those maintained by the City. Also viewed was tax lot 62 that is for sale, and Mr. Chandler notes the City is considering purchasing it as Open Space.

Jodi Mescher provided information on the proposed new Urban Renewal Boundary areas A and B, and explained why tax lot 62 would be included in the proposed boundary as it is not taxable and Ms. Mescher notes it provides more financial leverage. Mr. Chandler advised that the City is working with the State to take over the D'River Park, and is considering the (Roads End) State Park as well, and described proposed increase in parking. Mr. Chandler notes discussion with the State on increased parking at this location was held.

Discussed was whether or not to hike up to the top of The Knoll in the rain, parking issues for The Knoll area, and a request was voiced from Daniel Kabow and Kim Kabow, local residents, for better parking instructions and signage as they receive as many as 75 cars a day turning around in their driveway. The primary parking lot will be located off West Devil's Lake Road that will alleviate some of the issues, and it will be advertised. Jeanne Sprague notes they added signage for parking.

The next stop was The Knoll trail, and Ms. Sprague explained the parking signs and viewed the Kabow's driveway used as a turnaround by the public. Ms. Sprague notes this area is the focus of getting the parking out of the area. James Drayton has an easement with the City to get through to his quarry. Ms. Cabo explained issues with illegal camping in this area. Ms. Sprague advised the City is adding signs at all City parks and open spaces of day use only requirements. Ms. Cabo expressed concerns with adding more parking and then issues with more traffic in this area. Mayor Anderson notes this area is on a map and the public will come more to this area as it is the shortest trail.

3. ADJOURNMENT

Mayor Anderson adjourned the meeting at 10:16 am.

DICK ANDERSON, MAYOR

ATTEST:

**CATHY STEERE, MMC
CITY RECORDER**

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

February 10, 2020, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE: April 13, 2020

A. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:07 pm due to a technical issue with the sound system.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Diana Hinton	Councilor Ward 1	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Diane Kusz	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

C. PLEDGE OF ALLEGIANCE

Mayor Anderson led The Pledge of Allegiance.

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Joint City Council and Planning Commission – October 7, 2019 1:00 PM

The minutes in the packet was replaced with reformatted minutes.

E. COUNCIL DELIBERATIONS – None

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

None

G. PRESENTATIONS**2. Sustainability Committee: 3 initiatives - Plastics Reduction, Sustainable Landscaping, Sustainable Food Event**

Dave Price, Sustainability volunteer, used a PowerPoint to present information from the Sustainability Committee. Mr. Price provided a response to a recent news article that was totally opposite of what he actually said. Clarification letter was provided to the news media involved. Mr. Price spoke on zero waste, local sustainable food, sustainable landscaping, plastics reduction, protecting waterways and beaches, ban on polystyrene, and composting. Mr. Price suggested for a limited time to using portion of the transient room tax to make the difference between the cost of the polystyrene foam products and the replacement or paper product.

Councilor Hinton asked to add climate change to their list to work on, and offered a book called "Nature-Scaping for Clean Rivers" for review, wants to add ban plastic clam shell containers, and suggested working on a sustainability plan for city government. Councilor Casper provided additional information on zero waste. Councilor Kusz supports the options provided. Mayor Anderson notes he would like to move ahead with some of the suggestions, and expressed appreciation for the committee.

3. A Presentation of Explore Lincoln City's Planning and Creative Materials

Ed Dreistadt, Director of Explore Lincoln City used a PowerPoint to present information on Explore Lincoln City. Mr. Dreistadt provided a history of Lincoln City, noting the branding project, advertising agency, and now has a strategic plan in place. The Marketing Plan dovetails into the strategic plan. Also discussed was the "Finders Keepers" campaign, advertising in Portland, shadow box ads that brings imagery to life, "Finders Keepers" Pioneer Square Takeover on June 12, public relations, and it was noted that the visitors are staying only 1 or 2 nights. Mr. Dreistadt reviewed promotions, various current and proposed events, festival for July 4 to celebrate 65 years, holiday lights, and on a backup marketing plan he will be working on.

4. Naming of City Park Located on SE Keel Avenue

David Jamieson, Parks Board Chair and Loree Lafon used a PowerPoint presentation to present information on the naming of the City Park on SE Keel. The new name for the SE Keel City Park will be decided at a future Council meeting. Ms. Sprague corrected an error on comments on the staff report. The comments were from the contest participants. The Parks Board members introduced themselves, and information on the new park provided. The park will include more trails, nature play space, nature overlook and dog park. There will be an open house for the public to ask questions. Mr. Jamieson reviewed the parks naming policy and the top 6 name choices reviewed.

H. PUBLIC HEARING / ORDINANCE – None**I. PUBLIC HEARINGS / PUBLIC COMMENTS****5. Public Hearing: To consider a proposed zoning ordinance amendment (ZOA 2019-12) concerning LCMC 17.47.020 (Development in Identified Hazard Areas), including, but not limited to, clarifying measurement of the bluff setback.**

Mayor Anderson opened the hearing. Anne Marie Skinner, Director of Planning and Community Development, presented the staff report. Mr. Appicello provided information with regard to the purpose of this ordinance is to clarify the Lincoln City Municipal Code.

MOTION:	Motion to close the public hearing and the record.
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed via Voice Vote

6. Continued Public Hearing: To consider a proposed zoning ordinance amendment (ZOA 2019-16) concerning accessory dwelling units [LCMC 17.80.110], including, but not limited to, replacing subjective standards with clear and objective standards.

Mr. Appicello presented information on this agenda item, noting the local governments usually make this decision.

Council discussion was on concerns with changes to lot sizes and minimum distances between buildings. Mayor Anderson advises he takes exception to the state telling us what we have to do as the city has long had accessory dwelling units (ADU's).

MOTION:	Motion to close the public hearing and the record.
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Diane Kusz, Councilor Ward 2
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed via Voice Vote

7. Public Hearing: To consider a proposed zoning ordinance amendment (ZOA 2019-03) concerning LCMC 17.80.160 (Mobile Food Units and Mobile Food Unit Pods), including, but not limited to, designating Districts where use is permitted. Requesting public comment (hearing not required) on amending Title 5 to add mobile food unit licensing provisions.

Mayor Anderson opened the public hearing reading from the script. No abstentions or disqualifications disclosed. Anne Marie Skinner, Director of Planning and Community Development presented the staff report.

Council discussed non-food trucks and Ms. Skinner advised the ordinance does not include non-food trucks, noting the health department has stringent requirements for mobile food units that would not apply to units selling non-food items. Non-food trucks would be under a street vendor license. Discussed was whether the food units would be required to have porta-pot and hose. Ms. Skinner advises the mobile food unit is required to be self-contained. Discussed was the difference between class 1 and class 2, and concerns with not allowing the sale of prepackaged foods. Mr. Chandler explained the classifications. Planning advised that they sent out notification letters to all restaurant owner addresses and received feedback from only two.

Dan Clanton, owner of 1646 and owns several food carts spoke in support of class 1 and 2 food items, and asked that they not be eliminated. Dan also expressed concerns with the section involving generators that relates to noise and air pollution, and limitation on licensing. Also discussed was restroom availability.

Council discussed concerns with trash receptacles and who is responsible for the pod trash, where food is prepared, and brick and mortar establishments pay taxes and food carts do not.

Leslie Portune, owner of Snug Harbor Bar and Grill, expressed concerns specific to the Taft Village Core with a proposed pod unit going into the area where the old Pines Restaurant used to be located. Ms. Portune asked that pedestrian access be on both sides so the mobile unit backs will not be visible from Hwy 101. She also expressed concerns with the mobile food carts being able to remove the wheels as they are then no longer "mobile", noting they would be stored that way as an empty food truck for the winter if the wheels are removed.

Alison Robertson, Director of Economic Development spoke in support of the mobile food carts.

Council discussion occurred on why the issues of the wheels had been removed from the ordinance, the noise ordinance with regard to generators, the difficulty in enforcing the noise ordinance, eliminating packaged food and reasons why, home-made food might be encouraged over prepackaged food and concerns with eliminating packaged food wrapped in plastic, street vendors and non-profits not having to pay a fee and street vendors in comparison with mobile food trucks, and different foods and which classification they fall under.

Council consensus is to strike the prohibition of class 1 and 2 in the definitions, to include wheels are required, and that external generators are prohibited.

MOTION:	Motion to close the public hearing and the record.
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed via Voice Vote

J. ORDINANCES

8. ORDINANCE 2020-03 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.08 (DEFINITIONS); AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES); SECTION 17.80.110 (ACCESSORY DWELLING UNIT STANDARDS) TO REMOVE DISCRETIONARY STANDARDS; AMENDING THE FOLLOWING CHAPTERS TO REFLECT THE REVISION: CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE); 17.17 (SINGLE FAMILY RESIDENTIAL ROADS END (R-1-RE) ZONE); CHAPTER 17.18 (VACATION RENTAL (VR) ZONE); CHAPTER 17.20 (MULTI-FAMILY RESIDENTIAL (R-M) ZONE); CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE); CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE); CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT); CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE); CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE) AND CHAPTER 17.50 (OCEANLAKE PLAN (OP) DISTRICT); CHAPTER 17.52 (SUPPLEMENTAL REGULATIONS AND EXCEPTIONS).

Mr. Appicello completed first reading by title only.

MOTION: Motion to approve first reading of Ordinance 2020-03.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

Mr. Appicello completed second reading by title only.

MOTION: Motion to approve second reading and adoption of Ordinance 2020-03.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Rick Mark, Councilor Ward 3
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

9. ORDINANCE NO. 2020-04 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.47 (NATURAL HAZARDS BEACHES AND DUNES), SECTION 17.47.020 (DEVELOPMENT IN IDENTIFIED HAZARD AREAS), PARAGRAPHS B AND D, TO CLARIFY THE STARTING POINT FOR THE BLUFF SETBACK AND OTHER CLARIFICATIONS

Mr. Appicello completed first reading by title only.

MOTION: Motion to approve first reading of Ordinance 2020-04.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Judy Casper, Councilor Ward 3
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

Mr. Appicello completed second reading by title only.

MOTION: Motion to approve second reading and adoption of Ordinance 2020-04.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Judy Casper, Councilor Ward 3
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

10. ORDINANCE NO. 2020-05 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), TO ADD MOBILE FOOD UNITS AS PERMITTED USES IN THE FOLLOWING ZONES - AMENDING CHAPTER 17.24 (PROFESSIONAL CAMPUS (PC) ZONE); SECTION 17.24.020 (USES PERMITTED); AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), AMENDING CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), AMENDING CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT), SECTION 17.34.050 (PERMITTED USES); AMENDING CHAPTER 17.36 (PLANNED INDUSTRIAL (PI) ZONE), SECTION 17.36.020 (USES PERMITTED); AMENDING CHAPTER 17.42 (PARK (P) ZONE), SECTION 17.42.020 (PERMITTED USES); AMENDING CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE), SECTION 17.45.040 (LAND USE ACTIVITIES), AMENDING CHAPTER 17.50 (OCEANLAKE PLAN DISTRICT (OP) ZONE), SECTION 17.50.050 (PERMITTED USES), AND AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES), ADDING A NEW SECTION 17.80.170 (MOBILE FOOD UNITS) ESTABLISHING STANDARDS FOR MOBILE FOOD UNITS AND MOBILE FOOD UNIT PODS

Mr. Appicello completed first reading by title, and reviewed the revisions.

MOTION:	Motion to approve first reading of Ordinance 2020-05.
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Diana Hinton, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

Mr. Appicello completed second reading by title only.

MOTION:	Motion to approve second reading of Ordinance 2020-05 and adoption of the ordinance with changes as read in first reading,
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

11. ORDINANCE NO. 2020-06 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS), ADDING A NEW CHAPTER 5.30 (MOBILE FOOD UNITS), ESTABLISHING LICENSING REQUIREMENTS FOR MOBILE FOOD UNITS.

Agenda item number 13 was considered before this agenda item.

Mr. Appicello provided corrections to the Table of Contents and a reference to street vending that should state mobile food units; definitions should include "wheeled" mobile food unit; and strike the language beginning with mobile food units are limited to class 3 or 4 as identified in the OAR, and class 1 and 2 units as identified in OAR are prohibited from functioning, and strike language that mobile food unit does not include a street vendor cart or a mobile vehicle, trailer or wagon

selling prepackaged foods that are not altered by the vendor such as ice cream. Mr. Appicello suggests that paragraph "F" be replaced with language: "Mobile food units shall comply with all city ordinances concerning packaging, including any prohibitions on specific materials, for example polystyrene." This would replace language on packet page 135, paragraph "F".

Mr. Appicello completed first reading by title, and reviewed revisions.

MOTION:	Motion to approve first reading of Ordinance 2020-06 with previous read changes.
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Diana Hinton, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

Mr. Appicello completed second reading by title only.

MOTION:	Motion to approve second reading and adoption of Ordinance 2020-06.
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Diane Kusz, Councilor Ward 2
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

K. RESOLUTIONS

12. RESOLUTION 2020-04 A RESOLUTION OF THE CITY OF LINCOLN CITY DESIGNATING A PORTION OF THE 51st STREET RIGHT-OF-WAY FOR INTERIM PARK USE, SUBJECT TO PERMITTING AND REGULATIONS UNDER LCMC CHAPTER 12.16

Mr. Appicello provided information on the proposed resolution, noting the resolution was modified after published in the packet, and described the changes.

MOTION:	Motion to approve Resolution 2020-04.
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

L. SPECIAL ORDER OF BUSINESS

13. Public Interview: Request for Appointment to Planning Commission - MacNeale B Smith Council interviewed applicant MacNeale Smith with each Councilor asking questions.

MOTION: Motion to appoint MacNeale Smith to the Planning Commission for the open position.
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Diana Hinton, Councilor Ward 1
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed via Voice Vote

14. Approval of Final Order 2020-01

Mr. Appicello presented this item. Council discussion held as to the ordinance coming forward with regard to off-street parking, and asked if the City can reach out to those affected to let them know. Mr. Appicello notes it is a resolution, and Mr. Chandler agreed to notify those affected.

MOTION: Approval of Final Order 2020-01
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Judy Casper, Councilor Ward 3
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

15. Amendment to the Intergovernmental Agreement with ODOT for Curb Ramp Design

Ms. Bradley presented the staff report, noting that the project is financed by ODOT, and they have agreed to pay the difference from the original estimate \$450,000 to the updated cost of \$513,008 for the project.

MOTION: Motion to authorize the Mayor to sign Amendment number 1 to the Cooperative Improvement Agreement Number 32331 with the Oregon Department of Transportation (ODOT) named City of Lincoln City Curb Ramp Design.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

M. CITY MANAGER/CITY ATTORNEY REPORTS

Mr. Chandler spoke on the proposed ordinance/resolution on banning certain products, noting the two items that will be brought forward (composting and banning of polystyrene and plastic clamshell containers); and asked if there were any other items to be added. In addition, he asked if Council wished to have a work session on the suggestions from the Sustainability Committee.

Council consensus is to hold a work session March 2, 2020, with possible topics for discussion of reviewing recommendations of the Sustainability Committee, discussion of the Zero Waste plan. Mentioned was the possibility of obtaining information as to how many restaurants are using the containers proposed to be banned and the number of containers they use and the difficulty of obtaining the information.

Mr. Appicello suggested having a public hearing on the matter.

Mayor Anderson asked for clarification on how to handle the naming of the park, and Mr. Chandler notes it will be brought back as an agenda item. Councilor Hoagland asked that Council contact Tribal Council to obtain permission to use the Tribal name suggested.

Mayor Anderson also spoke on Council priorities, and Mr. Chandler advised it will be brought forward in March, and added that after the priorities work session, he forwarded the proposed priorities list and tasks, and received a few comments, and will revise the list with the comments received and will resend it for review. Mr. Chandler advised it would be helpful to receive thoughts on the revisions prior to consideration.

N. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

MOTION:	Motion to approve the pre-development assistance for the NE 25th Street property development.
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

None

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Hinton asked about the League of Oregon Cities inquiring about a City response to Senate Bill 1530, asked for the City's response (feedback), and asked if the City will be responding as a .22 cent per gallon tax increase proposed for Lincoln City. Council consensus is for the City not to respond.

The LOC Small Cities meeting is February 20, 2020.

In honor of the late Councilor Ward (February 12), "The Crepery" will be opening soon, and the Nelscott Cafe is now called "The Nelscott Breakfast House".

Mayor Anderson spoke on the LOC Spring Conference in Hermiston, OR, suggesting that only 1 or 2 Council members attend as opposed to a large number, and then sharing the information upon return. Mayor Anderson congratulated Oregon Coast Community College's receiving accreditation after 33 years, which gives them more flexibility with classes and work-studies. Mayor welcomes anyone who wishes to attend Coffee With the Mayor on Valentine's Day.

Q. ADJOURNMENT

The meeting adjourned at 10:05 pm.

ATTEST:

DICK ANDERSON, MAYOR

CATHY STEERE, MMC, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

February 24, 2020, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE: April 13, 2020

A. CALL TO ORDER

Council President Judy Casper called the meeting to order at 6:00 pm.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Excused	
Judy Casper	Councilor Ward 3	Present	6:00 PM
Diana Hinton	Councilor Ward 1	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Diane Kusz	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

C. PLEDGE OF ALLEGIANCE

Council President Casper led The Pledge of Allegiance.

Mr. Appicello asked if Council would like to add an Executive Session Agenda added to this meeting between "L" and "M" on the agenda. Council consented to the addition.

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – January 13, 2020 6:00 PM
2. Oregon Liquor Control Commission Request for New Outlet, Limited On-Premises Sales Liquor License - The Hilltop, Inc.

MOTION: Motion to approve the Consent Agenda.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Casper, Hinton, Hoagland, Kusz, Mark, Parsons
EXCUSED: Anderson
RESULT: Passed

- E. **COUNCIL DELIBERATIONS** - None
 F. **COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS** - None
 G. **PRESENTATIONS** - None

H. **PUBLIC HEARINGS / PUBLIC COMMENTS**

3. Zoning Ordinance Amendment 2019-08 Design Review Standards

This item was requested to be continued to May 11, 2020 City Council Meeting.

MOTION: Motion to continue the public hearing for ZOA 2019-08 Sign Design Standards to May 11, 2020.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Casper, Hinton, Hoagland, Kusz, Mark, Parsons
EXCUSED: Anderson
RESULT: Passed via Voice Vote

- I. **ORDINANCES** - None
 J. **RESOLUTIONS** - None

K. **SPECIAL ORDER OF BUSINESS**

4. Economic Development Update: New Roads End/Villages at Cascade Head Urban Renewal Area Draft Plan

Alison Robertson, Urban Renewal Agency Director, used a PowerPoint to present this agenda item. (See PowerPoint attached.)

Ms. Robertson notes that at the last advisory committee meeting requested was that an update be provided to Council. Elaine Howard, Elaine Howard Consulting, used a PowerPoint to present information from the advisory committee meetings. Ms. Robertson and Jodi Mescher, Economic Development Coordinator, provided a review of the boundary, a review of the public input to date, and will review the project list and a financial update.

Council discussion followed on concerns with how to prioritize the suggestions and the possible need for a professional, and notes the connector road is needed. Ms. Robertson provided a response, noting usually the first few years the progress is not visible, noting the timing is important with prioritization on projects noting also that 25 years is a long time. Mr. Chandler added that the end goal date for making a decision to go forward with the district is July 2020.

Council will have decisions on the size, length of time (years), and generally on the projects taking into consideration of the comments received. Mr. Chandler notes no action is needed at this meeting, however if Council has any questions, now would be a good time to bring them forward. The impact on the North Lincoln Fire and Rescue District will be discussed at a late time.

5. Bid Award - Police Radio Tower and Radio System Upgrades

Mr. Chandler presented preliminary information on this report. Jerry Palmer, Police Chief and Tony LaSoya, IT Director, presented the staff report and responded to questions/discussion. Chief Palmer and Tony expressed thanks to Phil Barker, a prior Lincoln City IT employee for his assistance with the tower.

Discussion was held with regard to the difficulty in securing a tower for the new PD Building, issues with spotty service that currently exists, timeline for erection of the tower, size of tower and base, that the tower is heavy duty, is it weather resistant, the base needed for the tower, renting out space on the tower (cannot be done), and aesthetic beauty of the tower. Mr. Chandler presented financial information with the estimate to be about \$404,000. The estimate for demolition of the old building and paving of the parking area is estimated to be between \$500,000 and \$550,000. The structure base is 17'x17'x4' deep and should hold up under an earthquake.

MOTION:	Motion to approve \$209,958.31 to be used for Complete Wireless radio tower material, M&A Contracting bid for the radio tower labor, the Complete Wireless bid for voting systems upgrade, contingency of \$18,270.00, and \$9,000 for PBS GeoTechnical Engineering Services.
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Diane Kusz, Councilor Ward 2
AYES:	Casper, Hinton, Hoagland, Kusz, Mark, Parsons
EXCUSED:	Anderson
RESULT:	Passed by Roll Call Vote

6. Request for Appointment to Public Arts Committee - Roxce Stavney

Ms. Stavney has already served on the committee.

MOTION:	Motion to appoint Roxce Stavney to the Public Arts Committee for a term expiring on 12/31/2022.
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Casper, Hinton, Hoagland, Kusz, Mark, Parsons
EXCUSED:	Anderson
RESULT:	Passed via Voice Vote

L. CITY MANAGER/CITY ATTORNEY REPORTS

City Manager reminded Council of budget training scheduled for Monday, 9:00 am to 12:00 pm.

City Attorney Appicello advised that last Thursday the LUBA record was filed on the Helping Hands challenge, and today a Motion to Dismiss was filed. Council requested a copy of the LUBA record.

M. 7:44 PM - RECESS TO EXECUTIVE SESSION

Council President announced the City would now meet in Executive Session to discuss pre-development assistance request and Urban Renewal Revenue Sharing under authority of ORS 192.660(2) (f) Confidential Records. Council President completed reading the script for Executive Session. The meeting is anticipated to be 45 minutes or less.

N. 8:33 PM - RECONVENE REGULAR CITY COUNCIL MEETING**O. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION**

MOTION:	Motion to approve the request for the pre-development assistance for The Villages at Cascade Head commercial development site.
MOVER:	Diana Hinton, Councilor Ward 1
SECONDER:	Rick Mark, Councilor Ward 3
AYES:	Casper, Hinton, Hoagland, Kusz, Mark, Parsons
EXCUSED:	Anderson
RESULT:	Passed by Roll Call Vote

P. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS – None**Q. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL**

Councilor Mark announced that Commissioner Kaety Jacobsen will be speaking at the Chamber lunch tomorrow, and mentioned the LOC Small Cities meeting where a Newport Councilor raised a concern with a need for improving the lines on Highway 101 at Cape Foulweather.

Councilor Hoagland notes he attended a meeting for the Oregon Coast Trail Association GAP Meeting. A dual need was identified for a bicycle trail as the Oregon Coast Trail, so there may be money available for both. Councilor Hoagland suggested that Mr. Chandler contact Brenda Bremner from the Tribe for additional information. Councilor Hinton spoke on ride-sharing vs. local cab companies, and suggested amending our code to allow ride-share. Councilor Parsons added that he had been contacted by someone from Uber who states there isn't enough people to download the application noting that 10,000 users is a required.

Councilor Hoagland also asked if the City was using the herbicide known as Roundup, and announced that the old Pines property has been purchased and will be opening as a food pod location for 5-6 unique businesses.

Councilor Hinton advises Lincoln County voted unanimously on a Final Order for the transfer of Logan Road, which includes a check in the amount of \$415,000 for the projects.

Councilor Casper announced "The Pearls of Wisdom" will be held on March 7 from 5:00 pm to 9:00 pm, which is an annual fundraiser at Oregon Coast Community College (OCCC) in celebration of their recent accreditation. The cost is \$75.00. Also announced is a presentation by the 5 artists (finalists) to be held at the Lincoln City Council Chambers from 5:00 pm to 7:00 pm, hosted by the Lincoln City Cultural Center.

MOTION:	Motion to direct staff to come back with an Ordinance for transportation network companies separate from taxi cabs.
RESULT:	Died Without a Second

MOTION:	Motion to return with information on Corvallis's recent ordinance on Uber's recent license, and bring back at a future Council meeting date.
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Casper, Hinton, Hoagland, Kusz, Mark, Parsons
EXCUSED:	Anderson
RESULT:	Adopted by Voice Vote

R. ADJOURNMENT

Council President Casper adjourned the meeting at 8:46 pm.

JUDY CASPER, COUNCIL PRESIDENT

ATTEST:

**CATHY STEERE, MMC
CITY RECORDER**

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

March 9, 2020, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE: April 13, 2020

A. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:00 pm, and thanked Council President Judy Casper for facilitating the meeting in his absence.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Diana Hinton	Councilor Ward 1	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Diane Kusz	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

Also present: City Manager, Ron Chandler; City Attorney, Richard Appicello; City Recorder, Cathy Steere; Stephanie Reid, City Engineer; and Jeanne Sprague, Parks and Recreation Director.

C. PLEDGE OF ALLEGIANCE

Mayor Anderson led The Pledge of Allegiance.

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Work Session – October 29, 2019 9:00 AM
2. Regular Meeting – Minutes of Regular Meeting – January 27, 2020 6:00 PM

MOTION: Motion to approve the Consent Agenda with corrections.
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Diana Hinton, Councilor Ward 1
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed

E. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

Lori Arce-Torres, Chamber Executive Director and Lori Arnold - Spoke on the Antique and Collectible Week noting that yesterday it will be the 30th anniversary. This event brings many visitors to Lincoln City. The Chamber Super Auction brought in approximately \$17,000 that is critical to the Chamber. Lori announced that on March 31, 2020, the Chamber luncheon is at the Cultural Center where Mayor Anderson will provide city updates.

F. PRESENTATIONS - None

G. PUBLIC HEARINGS / PUBLIC COMMENTS – None

H. ORDINANCES

3. ORDINANCE 2020-07 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING ORDINANCE 2019-42, PROVIDING FULL PROPERTY DESCRIPTION FOR THE VACATION OF A PORTION OF NW 44TH PLACE

City Attorney, Richard Appicello completed first reading by title only.

MOTION: Motion to approve first reading of Ordinance 2020-07.
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

MOTION: Motion to approve second reading and adoption of Ordinance 2020-07.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

I. RESOLUTIONS – None

J. SPECIAL ORDER OF BUSINESS

4. Choosing New Park Name for New Park (SE 3rd & Keel)
David Jamieson, Chair of the Parks Board; and Jeanne Sprague, Director of Parks and Recreation, presented the staff report on naming the new city park. There were 86 entries that was reduced by the Committee to 6, and now Council will decide on the final name.

Mayor Anderson confirmed with the Confederated Tribes of Siletz Indians on the use of the name, and asked that it have the correct pronunciation and translation. Councilor Mark expressed concerns with the name Nesika as it relates to a firearms manufacturer, and prefers the name Osprey Park. Councilor Casper advise that she was contacted by community members who would like the park called Osprey Park as there are Osprey's in the park.

MOTION: Motion to name the park "Nesika Park".
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Diana Hinton, Councilor Ward 1
AYES: Anderson, Hinton, Hoagland, Kusz, Parsons
NAYS: Casper, Mark
RESULT: Passed via Voice Vote

5. Design-Build Contract Award for Hwy 101 Neotsu Bike/Ped Improvements
Stephanie Reid, City Engineer, presented the staff report and information on the Hwy 101 project that is a \$3,000,000 project. Ms. Reid notes a contingency will be added, however it is built into the not-to-exceed cost. This project was approved and funded back in 2013.

MOTION: Motion to award the Progressive Design-Build Services for Hwy 101 - NE Neotsu Drive to NE West Devils Lake Road Bike/Pedestrian Improvement Project to K&E Excavating Inc.
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Roll Call Vote

6. Arbor Day 2020 Proclamation
Jeanne Sprague, Parks and Recreation Director, presented the staff report and Mayor Anderson read the Arbor Day 2020 Proclamation noting that Arbor Day is celebrated on Saturday, April 18, 2020 at Regatta Park. Lincoln City has had the Tree City USA designation for 12 years.

MOTION: Move to approve the Proclamation establishing 4/18/20 as Arbor Day 2020 for Lincoln City, to celebrate trees and continue with our Tree City USA designation.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Diana Hinton, Councilor Ward 1
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed via Voice Vote

7. Mural Art in Parks - Public Art Donation
Crystal Akins, Founder of Oregon Children's Music Festival and Director of Community Arts Projects; David Jamieson, Parks Board Chair; and Niki Price, Arts Committee Chair presented

this item. Crystal used a PowerPoint to present this item showing the various murals proposed. The project has had pre-approval by Jeanne Sprague, Director of Parks and Recreation, and City Manager Ron Chandler, and now needs Councils approval. Corrected was reference to a beach access on SW 34th and was correct to SW 33rd beach access. Ms. Akins notes house paint is used and a varnish is placed on the top and will research how it stands up to graffiti. Ms. Price provided information on the plan, and notes it satisfies some of the Arts Committee goals.

Councilor Mark confirmed that all murals will be painted horizontally on concrete. Mr. Appicello provided legal advice, noting that typically the City will ask for a waiver of the artist's rights. Ms. Sprague advises that as of this fiscal year they will have a line-item for Public Art in Parks, noting there is not much maintenance for these types of murals, and they last about 15 years. Councilor Mark asked who was making the final decision, and it was determined that the Arts Committee makes the final decision. Councilor Hinton asked that the final decision is brought back and shared with Council.

MOTION:	Motion to accept the donation subject to the waiver of rights.
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Diana Hinton, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed via Voice Vote

8. Chainsaw Art (Wildlife Theme) in Public Space

David Jamieson, Parks Board Chair; Niki Price, Arts Committee Chair; and James Lukinich, Artist presented this item which is a carving in the stump at the pump station at corner of Hwy 101 and West Devils Lake Road.

Council discussed issues with viewing the stump when it is on a hillside and where the viewable side would be located, concerns with parking at the pump station, and that the funds are coming from the Park Improvement fund. Mr. Appicello notes this will need to be a contract for art and will need to be made subject to execution under the City's standard contract. Ms. Price advised the Art Committee reviewed and felt that decoration of the stump would be an asset.

MOTION:	Motion to approve the chain saw sculpture wildlife scene to be located at the stump on West Devils Lake Road next to the pump station, subject to execution of the contract.
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Rick Mark, Councilor Ward 3
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

K. CITY MANAGER/CITY ATTORNEY REPORTS

L. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

M. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

Grant Melton spoke on the need for a mountain bike trail or a set group of trails in the Lincoln City area. Mayor Anderson asked that he meet with Jeanne Sprague, Parks Director, and suggested that he get a group together and come up with a plan and speak to Ms. Sprague. Mr. Melton confirmed with the Mayor that no bicycles are allowed in the Open Spaces, and added that signs are missing at some Open Spaces.

Mayor Anderson explained the change in the State of City address to September, as it will be end of the fiscal year, and the reason for the "update" to be held this spring. The change is at the advice of the Mayor.

N. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Parsons asked about the existing murals on buildings and if they need a permit. Discussion held as to murals and permits.

Councilor Hinton asked if the City received the check for Logan Road property from Lincoln County, and Mr. Chandler advised that Commissioner Jacobsen is checking on it.

Mayor Anderson announced the Work Session is on Monday, March 16 on Sustainability Committee recommendations, March 18 is the Parks Open House at the Community Center on the newly named City Park, Friday, March 20 is Coffee with the Mayor and at noon is an Open House for Lincoln County Behavioral Health, and on March 21 is an Open House at the newly remodeled north fire station from 11:00 am to 3:00 pm. Lincoln County School District has advised that there is now a DEQ clearance letter on the Taft school property and they are anxious to make the exchange with the City

O. ADJOURNMENT

Mayor Anderson adjourned the meeting at 7:20 pm.

DICK ANDERSON, MAYOR

ATTEST:

**CATHY STEERE, MMC
CITY RECORDER**



PLANNING COMMISSION STAFF REPORT
MEETING DATE: April 13, 2020

Report prepared by Richard Appicello, City Attorney

Public Comment - Resolution 2020-05

Background:

Materials for this Agenda item are located later on this Agenda under Resolution 2020-05.

Authority:

294.160 Opportunity for public comment on new fee or fee increase. (1) The governing body of a city, county or other unit of local government shall provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated.

Public Comment:

Due to the Covid-19 pandemic, it is recommended that public comment on the proposed mobile food unit fees and charges be emailed to:
publiccomment@lincolncity.org



PLANNING COMMISSION STAFF REPORT
MEETING DATE: April 13, 2020

Report prepared by Richard Appicello, City Attorney

Public Comment - Resolution 2020-07

Background:

Materials for this Agenda item are located later on this Agenda under Resolution 2020-07.

Authority:

294.160 Opportunity for public comment on new fee or fee increase. (1) The governing body of a city, county or other unit of local government shall provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated.

Public Comment:

Due to the Covid-19 pandemic, it is recommended that public comment on the proposed composting rate be emailed to: publiccomment@lincolncity.org

Council Communication

Ordinance 2020-09 Polystyrene Ban

Meeting Date:	April 13, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Public Works	Secondary Contacts:	Ronald Chandler
Approval:	Ronald F Chandler	Estimated Time:	10 minutes

Question(s):

Should the City Council conduct and approve Second Reading and adopt Ordinance 2020-09 entitled:

ORDINANCE NO. 2020-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 8 (HEALTH AND SAFETY), ADDING CHAPTER 8.11 (NUISANCE - POLYSTYRENE FOAM)

Staff Recommendation:

Given the impact on the availability of goods (e.g. non-polystyrene containers) caused by the coronavirus pandemic and the financial impact of the virus on restaurants, staff recommends a delayed effective date for this ordinance. . Because the effective date language is a change from First Reading the language will have to be read.

Staff recommends Council conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

Following recommendations from the City's sustainability committee and the specific requests of

several councilors Council has proposed a ban on polystyrene foam. The attached ordinance is modeled on the Ordinance from the City of Ashland, Oregon - however confusing and unnecessary provisions have been removed.

First Reading was approved on March 23, 2020 by a vote of 4-3. Delayed effective date language (one year) is proposed. See attached Ordinance.

Council Options:

1. Read Changes. Conduct and Approve Second Reading and Adopt the Ordinance; or
2. Continue Second Reading to April 27, 2020 or later; or
3. Do not proceed with proposed ordinance.

Potential Motions:

City Attorney: [Conduct Second Reading of Ordinance by Title only]

ORDINANCE NO. 2020-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 8 (HEALTH AND SAFETY), ADDING CHAPTER 8.11 (NUISANCE - POLYSTYRENE FOAM)

Council:

1. Motion to approve Second Reading and adopt Ordinance 2020-09.

[or]

2. Motion to set Second Reading for April 27, 2020 or later.

Attachments:

Ordinance 2020-09 Polystyrene ban delayed (DOCX)

ORDINANCE NO. 2020-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 8 (HEALTH AND SAFETY), ADDING CHAPTER 8.11 (NUISANCE – POLYSTYRENE FOAM)

Annotated to show deletions and additions to the code sections being modified. Deletions are bold ~~lined through~~ and additions are **bold underlined**.

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293; 531 P 2d 730, 734 (1975); LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978); and

WHEREAS, the City Council directed city staff to prepare an ordinance on the ban of polystyrene foam; and

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code, Title 8 (Health and Safety), Chapter 8.11 (Nuisance – Polystyrene Foam), is hereby added as follows:

Chapter 8.11
NUISANCE - POLYSTYRENE FOAM

Sections:

8.11.010 Polystyrene Foam Declared Nuisance.

8.11.020 Definitions.

1 **8.11.030 Polystyrene Foam Banned Food Packaging.**

2 **8.11.040 Enforcement.**

3 **8.11.050 Exemptions.**

4
5 **8.11.010 Polystyrene Foam Declared Nuisance.**

6
7 **The manufacture of polystyrene foam of all types has been identified as a major**
8 **contributor to the depletion of the earth's ozone layer and thus is a long-term**
9 **menace to the public health. Polystyrene foam products used for prepared food**
10 **packaging are hereby declared a public nuisance.**

11
12 **8.11.020 Definitions.**

13 **As used in this ordinance, the following terms have the following meanings:**

14
15 **A. Chlorofluorocarbons are the family of substances containing carbon,**
16 **fluorine and chlorine.**

17
18 **B. Food Vendor means any restaurant, retail food vendor, or nonprofit**
19 **food provider.**

20
21 **C. Nonprofit Food Provider means a recognized tax exempt organization**
22 **which provides food as a part of its services.**

23
24 **D. Person means any natural person, firm, corporation, partnership, or**
25 **other organization or group however organized.**

26
27 **E. Restaurant means any establishment located within the City of Lincoln**
28 **City selling prepared food to be eaten by customers. Restaurant includes**
29 **Mobile Food Units and Street Vendors.**

30
31 **F. Retail Food Vendor, Vendor means any store, shop, sales outlet or other**
32 **establishment, including a grocery store or a delicatessen, located within the**
33 **City of Lincoln City, which sells prepared food. Retail Food Vendor includes**
34 **Mobile Food Units and Street Vendors.**

35
36 **8.11.030 Polystyrene Foam Products used for Prepared Food Packaging are**
37 **banned.**

38
39 **A. No restaurant, retail food vendor or nonprofit food provider or other**
40 **person shall serve prepared food, sell, give away, deliver or provide in any**

1 way, prepared food in any polystyrene foam products, nor sell, give away,
2 deliver or provide in any way, polystyrene foam products intended for use
3 as disposable food containers, when such polystyrene foam containers are
4 manufactured with chlorofluorocarbons (CFCs) which do not reduce the
5 potential for ozone depletion by more than ninety-five percent (95%),
6 compared to the ozone depletion potential of CFC-12
7 (dychlorodifluorothane). Compounds banned include: CFC-11, CFC-12, CFC-
8 113, CFC-114, CFC-115, Halon-1211, Halon-1301 and Halon-2402.

9
10 B. Food Vendors may be required to furnish a written statement from the
11 manufacturer or supplier of polystyrene foam products used by that Food
12 Vendor, indicating that the chemical compounds used in the manufacture of
13 the vendor’s polystyrene foam products do not violate the provisions of this
14 ordinance.

15
16 **8.11.040 Enforcement.**

17
18 Violations of this ordinance shall be deemed a Class C violation and shall be
19 subject to citation and punishable as set forth in Section 1.16 of the Lincoln City
20 Municipal Code.

21
22 **8.11.050 Exemptions.**

23
24 The prohibitions of this ordinance do not apply to raw food products, including
25 packaged raw meat, (e.g. beef, poultry, seafood or pork) and other raw food
26 products that have not been prepared (cooked) by a Food Vendor.

27
28 **SECTION 2. Findings Adopted.**

29
30 The findings contained in the Whereas Clauses of this Ordinance, as well as the competent
31 substantial evidence in the whole record of this legislative proceeding are incorporated into this
32 section by reference as if fully set forth herein, and are adopted in support of this legislative
33 action.

34
35 **SECTION 3. Severability.**

36
37 The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity
38 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining
39 sections, subsections, paragraphs and clauses.

40

1 **SECTION 4. Ordinance Delayed Effective Date.**

2
3 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect on April 13, 2021.

4
5 **SECTION 5. Codification.**

6
7 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
8 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
9 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
10 Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City
11 Recorder is authorized to correct any cross-references and any typographical errors.

12
13 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
14 9.2 of the City of Lincoln City Charter on the 23rd day of March, 2020 (First Reading) and on the
15 13th day of April, 2020 (Second Reading).

16
17 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of April, 2020.

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21 _____
22 DICK ANDERSON, MAYOR

23
24 ATTEST:

25
26
27 _____
28 CATHY STEERE, CITY RECORDER

29
30 APPROVED AS TO FORM:

31
32
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34 _____
35 RICHARD APPICELLO, CITY ATTORNEY
36

Council Communication

Ordinance 2020-11 (Acceptance of Logan Road Transfer)

Meeting Date:	April 13, 2020	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	Richard Appicello
Approval:	Ronald F Chandler	Estimated Time:	5 minutes

Question:

Should the City Council conduct and approve First Reading and Second Reading of Ordinance 2020-11:

ORDINANCE 2020-11

**AN ORDINANCE OF THE CITY OF LINCOLN CITY
ACCEPTING THE TRANSFER OF A PORTION OF LOGAN ROAD, LINCOLN COUNTY
ROAD #100, FROM LINCOLN COUNTY, OREGON PURSUANT ORS 373.270(5)(b)
AND LINCOLN COUNTY ORDER 2-20-55.**

Staff Recommendation:

Staff recommends Council conduct and approve First Reading of Ordinance 2020-11 and, *if unanimous*, conduct and approve Second Reading of Ordinance 2020-11.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

ORS 373.270 Transferring jurisdiction over county roads within cities. (1)

Jurisdiction over a county road within a city may be transferred under this section whenever:

(a) The county governing body deems it necessary, expedient or for the best interest of the county to surrender jurisdiction over any county road or portion thereof within the corporate limits of any city; and

(b) The governing body of the city deems it necessary or expedient and for the best interests of the city to acquire jurisdiction over the county road or part thereof to the same extent as it has over other public streets and alleys of the city.

(2) To initiate a proceeding for the transfer of jurisdiction under this section, the county governing body, upon its own motion or upon the request of the city by its governing body, shall give notice by:

(a) Posting in three public places in the county, one of which shall be within the limits of the city; or

(b) Publishing the notice once a week for four successive weeks in some newspaper of general circulation in the county.

(3) Notice under this section shall give the time and place of hearing and a succinct statement of the proposed action requested and describing the road or portion thereof proposed to be surrendered by the county to the city with convenient certainty.

(4) At the time and place mentioned in the notice under this section or at such adjournment as it may fix, the county governing body shall hear the matter, consider any objections or testimony offered by any person interested and determine whether it is necessary, expedient or for the best interests of the county to surrender jurisdiction over the county road or portion thereof to the city.

(5) If a county governing body determines to surrender jurisdiction under this section and initiates action under this section:

(a) The county governing body shall make an order to that effect and offer to the city to surrender jurisdiction over the county road or portion thereof, and may limit the time for the acceptance of the offer; and

(b) The city by appropriate municipal legislation may within the time specified accept the county order and offer to surrender jurisdiction under this section.

(6) If a city governing body determines to initiate action under this section for the surrender of jurisdiction by a county over a county road:

(a) The city governing body may initiate the action by passage of appropriate municipal legislation that requests surrender and that may set any time or other limitations upon acceptance by the city of the surrender; and

(b) The county governing body may surrender jurisdiction of the county road without further action by the city if the county governing body adopts an order surrendering the county road that meets the limitations established by the city in its legislation.

(7) When a city adopts appropriate municipal legislation accepting a county governing body's order under subsection (5) of this section or when a county governing body adopts an order meeting city legislation under subsection (6) of this section:

(a) The jurisdiction of the county over the county road or portion thereof as a county road, or for its improvement, construction or repair shall cease;

(b) The full and absolute jurisdiction over the road for all purposes of repair, construction, improvement and the levying and collection of assessments therefor shall vest in the city; and

(c) The city shall have the same jurisdiction over the road or portion thereof as by its charter and the laws of the state are given or granted it over any of the public streets and alleys of such city.

(8) This section is applicable to all county roads, whether acquired by the county or the public by condemnation, defective condemnation and user, user or prescription or in any manner provided by law or in which the easement for road purposes is in the public. [Amended by 1981 c.153 §73]

Background:

Lincoln County adopted Order 2-20-55 offering the City of Lincoln City a portion of Logan Road currently under the County's jurisdiction. To accept the offered transfer the City Council must accept the transfer by appropriate municipal legislation on or before April 15, 2020. **[Given the time constraints in the Lincoln County Order there is insufficient time to continue second reading.]** The acceptance includes a payment of \$415,000 to the City in lieu of road improvements.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. *If unanimous*, Conduct Second Reading and adopt the ordinance.

Financial Impact

\$415,000. – see Order.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE 2020-11

**AN ORDINANCE OF THE CITY OF LINCOLN CITY
ACCEPTING THE TRANSFER OF A PORTION OF LOGAN ROAD, LINCOLN COUNTY
ROAD #100, FROM LINCOLN COUNTY, OREGON PURSUANT ORS 373.270(5)(b)
AND LINCOLN COUNTY ORDER 2-20-55.**

Council:

1. Motion to approve First Reading of Ordinance 2020-11.

*If unanimous, the Charter would permit the City Attorney to proceed
with Second Reading ...if Council desires to adopt the ordinance in one
meeting*

Council:

1. Motion to approve Second Reading and adopt Ordinance 2020-11.

Attachments:

FINAL 2020-11 Logan Road (DOC)

Order #2-20-55 Transfer of Jurisdiction over Logan Rd to the City of Lincoln City (PDF)

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ORDINANCE 2020-11

**AN ORDINANCE OF THE CITY OF LINCOLN CITY
ACCEPTING THE TRANSFER OF A PORTION OF LOGAN ROAD, LINCOLN COUNTY
ROAD #100, FROM LINCOLN COUNTY, OREGON PURSUANT ORS 373.270(5)(b)
AND LINCOLN COUNTY ORDER 2-20-55.**

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provide:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution.

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, Lincoln County pursuant to ORS 373.270(5)(a) has offered to transfer a portion of Logan Road, County Road #100, to the City of Lincoln City; and

WHEREAS, Lincoln City, pursuant to ORS 373.270(5)(b) desires to accept the offer of transfer as reflected in County Offer 2-20-55 on or before the April 15, 2020 deadline; and

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. Acceptance. The City of Lincoln City accepts the offer of Lincoln County to transfer Logan Road, County Road #100 to the City of Lincoln City under the terms as set forth in approved Lincoln County Order 2-20-55.

1 **Section 2. Findings Adopted.** The findings in support of the proposed
2 vacation are hereby adopted by the City Council as set forth in the public hearing staff
3 report in the record of this proceeding.

4
5 **Section 3. Severability.** The sections, subsections, paragraphs and clauses of
6 this ordinance are severable. The invalidity of one section, subsection, paragraph, or
7 clause shall not affect the validity of the remaining sections, subsections, paragraphs and
8 clauses.

9
10 **Section 4. Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance
11 takes effect 30 days after the date of its adoption.

12
13 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,
14 Section 9.2 of the City of Lincoln City Charter on the 13th day of April, 2020 (First
15 Reading) and on the 13th day of April, 2020 (Second Reading).

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17 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th
18 day of April 2020.

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DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

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BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

In the Matter of)
) **ORDER # 2-20- 55**
THE TRANSFER OF JURISDICTION)
OVER LOGAN ROAD, COUNTY ROAD)
#100 TO THE CITY OF LINCOLN CITY)

WHEREAS Lincoln County initiated transfer of jurisdiction over a portion of Logan Road, County Road # 100 via Board Order # 1-20-04 adopted on January 8, 2020 and by this reference incorporated herein¹; and

WHEREAS that Order authorized a hearing on the transfer of the road in accordance with ORS 373.270. Notice of that hearing was published and posted in accordance with ORS 373.270(2). The Board of Commissioners held the hearing on February 12, 2020 at the time and location set in the publication. No objections or testimony adverse to the transfers was received. Testimony in favor of the transfer was received; and

WHEREAS the Board has determined that it is in the best interests of the County to surrender jurisdiction over the county roads and portions of roads identified in Board Order # 1-20-04; and

WHEREAS pursuant to ORS 373.270(5) the County through this Order is offering to surrender the subject portion of Logan Road, County Road # 100 to the City of Lincoln City. The County and City have agreed that if transfer of this Road is accepted as part of this Order

¹ As noted in Order # 1-20-04, a portion of Logan Road was previously transferred by the County and accepted by the City of Lincoln City in 2009. Lincoln County Board of Commissioners Records Book 074, Page1441. This action when completed would transfer the remainder of Logan Road to the City.

1 and offer, the County will pay the City **\$415,000** in lieu of further improvements to Logan
2 Road.

3 **IT IS HEREBY ORDERED THAT:**

4 (1) The Board of Commissioners finds it is in the best interests of Lincoln
5 County to transfer to the City of Lincoln City that portion of Logan Road, County Road
6 #100 identified in Exhibit "A" attached hereto and incorporated herein.

7 (2) Pursuant ORS 373.270(5) the County offers to surrender jurisdiction of the
8 that portion of Logan Road, County Road # 100 identified in this Order to the City of
9 Lincoln City. Under ORS 373.270(5)(b) the City of Lincoln City by appropriate municipal
10 legislation may accept the Order and offer. This acceptance shall occur on or before April
11 15, 2020. Upon acceptance of the Order and offer, Lincoln County's jurisdiction over Logan
12 Road as identified in Exhibit "A", and responsibility for improvement, construction and repair
13 of that road shall cease. Full and absolute jurisdiction over Logan Road in its entirety for all
14 purposes of repair, construction, improvement and the levying and collecting of assessments
15 therefore vests in the City of Lincoln City upon adoption of the City's municipal legislation.

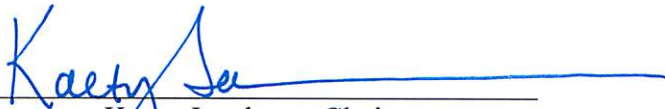
16 (3) Upon acceptance of this Order and offer by the City through adoption of
17 appropriate municipal legislation, the County will pay the City **\$415,000** in lieu of
18 improvements to Logan Road, County Road # 100.

19 (4) If the City timely accepts the Order and offer and returns appropriate municipal
20 legislation to the County, the City legislation shall be recorded in the Lincoln County
21 Commissioners Journal to evidence completion of the transfer process.

1 (5) Copies of this Order be provided to Ron Chandler, City Manager, City of
2 Lincoln City for distribution to the Mayor and City Council, City Attorney, and City Public
3 Works Director; to Roy Kinion, County Public Works Director; and to Wayne Belmont,
4 County Counsel.

DATED this 19th day of February, 2020.

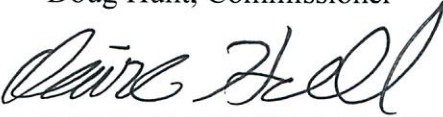
LINCOLN COUNTY BOARD OF COMMISSIONERS



Kaety Jacobson, Chair



Doug Hunt, Commissioner



Claire Hall, Commissioner

Exhibit "A"

LOGAN ROAD – COUNTY ROAD # 100 JURISDICTIONAL TRANSFER

Beginning at the northerly limit of that section of Logan Road – County Road # 100 which was previously transferred to the jurisdiction of the City of Lincoln City as described in Lincoln County Board of Commissioners Order #6-09-135 recorded in Book 074, Page 1441, Lincoln County Commissioner's Records; thence northerly to the northern terminus of said Logan Road in Section 26, Township 6 South, Range 11 West, W.M., Lincoln County, Oregon.

Council Communication

Resolution 2020-05 Resolution Mobile Food Unit Fees

Meeting Date:	April 13, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Public Works	Secondary Contacts:	AnneMarie Skinner
Approval:	Ronald F Chandler	Estimated Time:	5 minutes

Question:

Should the City Council approve Resolution 2020-05 approving land use and license application fees for mobile food units together with a flat rate concession charge (for Parks Department uses)?

Staff Recommendation:

After providing for the opportunity for public comment, staff recommends the adoption of Resolution 2020-05.

Authority:

294.160 Opportunity for public comment on new fee or fee increase. (1) The governing body of a city, county or other unit of local government shall provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated.

Public Comment:

Due to the Covid-19 pandemic, it is recommended that public comment on the proposed mobile food unit fees and charges be emailed to: publiccomment@lincolncity.org

Background:

Council enacted Ordinance 2020-05 (mobile food units land use) and Ordinance 2020-06 (mobile food unit license) on February 10, 2020. Planning staff has requested to establish a land use application fee of \$150.00 under LCMC 17.80.170.D. Finance staff has requested a license application fee of \$100.00 under LCMC 5.30.020. Concession daily and monthly flat rates in Parks for mobile food units shall be the same as for Street Vendors. This agenda item was continued from the March 23, 2020 council meeting.

The attached proposed fee schedule only includes fees that will change.

Council Options:

1. Motion to approve Resolution 2020-05.
2. Do not approve Resolution 2020-05.

Financial Impact

Revenue for land use and licensure of mobile food units should increase in the next fiscal year. Parks concessions will also be expected to increase if mobile food units are approved in suitable park locations. Please note- the required concession fee or percentage charged to not-for profit entities operating regular parks concessions are donated back to the entities, subject to filing of an annual report and proof of non-profit status. (See 12.16.045)

Attachments:

2020-05 4-2-20 (DOCX)
Res. 2020-05 Ext. A (DOCX)

RESOLUTION NO. 2020-05

**A RESOLUTION OF THE CITY OF LINCOLN CITY,
ADOPTING APPLICATION FEES AND CHARGES FOR MOBILE FOOD
UNITS (LICENSE AND LAND USE) AND ESTABLISHING PARKS CONCESSION
FEES AND CHARGES**

WHEREAS, the City of Lincoln City has established fees and charges for land use applications and license applications; and

WHEREAS, the City of Lincoln City has established concession rates (10%) and daily and monthly flat concession rates for commercial activity in City; and

WHEREAS, the City has recently adopted ordinances adding land use and license applications for Mobile Food Units with application fees to be established by Resolution; and

WHEREAS, Ordinance 2020-05 authorizes Mobile Food Units in Park Zones, subject to payment of the standard Parks concession (10%) or applicable daily or monthly rate; and

WHEREAS, ORS 294.160 mandates that the City provide an opportunity for public comment when fees or charges are established or increased; and

WHEREAS, on March 23, 2020 and April 13, 2020, the City Council provided an opportunity for public comment on the proposed new application fees and concession charges or increases proposed by Resolution; and

WHEREAS, Council desires to establish new fees and charges and increase fees and charges as set forth herein; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN CITY, AS FOLLOWS:

Section 1. The recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. The application fee for mobile food units (land use) shall be \$150.00. The application fee for mobile food units (license) shall be \$100.00. The percentage for concessions shall be 10 percent as detailed in the Parks Chapter (LCMC 12.16) or the daily and monthly rate which is the same as for Street Vendors. Use of the flat rate or percentage in City Parks concessions remains at

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the discretion of the Parks Director.

Section 3. The attached Exhibit A schedule of fees and charges are hereby adopted as the current fees and charges for the listed applications and concessions, and are incorporated herein by this reference.

Section 4. The above referenced fees and charges will be incorporated into the omnibus fee resolution to be adopted later this year.

Section 5. This Resolution is effective as of the date of its adoption.

PASSED AND APPROVED by the City Council of the City of Lincoln City, Oregon, this 13th day of April, 2020.

DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

RESOLUTION 2020-05 FEE ATTACHMENT – EXHIBIT A

Name of City of Lincoln City Fee	Amount
Mobile Food Land Use Application Fee	\$150.00
Mobile Food License Fee	\$100.00
Parks Concession Fee – daily (shall be same as street vendors)	\$
Parks Concession Fee – monthly (shall be same as street vendors)	\$

Council Communication

Resolution 2020-07 [Mandatory Composting]

Meeting Date:	April 13, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Council	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	Ronald Chandler
Approval:	Ronald F Chandler	Estimated Time:	10 Minutes

Question:

Should the City Council approve Resolution 2020-07 authorizing a residential composting program to begin in March 2021 and establishing rates?

Staff Recommendation:

After providing for the opportunity for public comment, staff recommends the adoption of Resolution 2020-05.

Authority:

Ordinance 2006-11 (North Lincoln Sanitary Service Franchise Agreement)

294.160 Opportunity for public comment on new fee or fee increase. (1) The governing body of a city, county or other unit of local government shall provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated.

Public Comment:

Due to the Covid-19 pandemic, it is recommended that public comment on the proposed composting rate be emailed to: publiccomment@lincolncity.org

Background:

On March 16, 2020 the City Council discussed in a work session format the proposal of the North Lincoln Sanitary Service to establish a composting program in Lincoln City. Action on the request to add composting was scheduled for the regular meeting on

March 23, 2020. The agenda item was postponed to April 13, 2020 to allow for public comment. The effective date of the resolution is March 2021.

Note: North Lincoln sent via email an alternate proposal (attached) with a plan to reduce costs to residential users by providing a lesser service to commercial users. Because the rate increase is the same for both but the services are different, there is some question of the defensibility of the proposal.

Council Options:

The City Council may:

Approve the Composting Resolution [or]
Do not approve the Composting Resolution.

Financial Impact

Monthly residential rate increase [\$6.85 month] to begin in March 2021.

Potential Motions:

I move to approve Resolution 2020-07.

Attachments:

Resolution 2020-07 Composting 4-2-20 (DOCX)

Ordinance 2006-11 (PDF)

Email message (DOCX)

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RESOLUTION NO. 2020-07

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**A RESOLUTION OF THE CITY OF LINCOLN CITY AUTHORIZING THE
ESTABLISHMENT OF A MANDATORY RESIDENTIAL COMPOSTABLES
COLLECTION PROGRAM AND ADOPTING RATES**

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WHEREAS, in Ordinance No. 2006-11, the City of Lincoln City granted a solid waste franchise to Dunn-LeBlanc, Inc. DBA North Lincoln Sanitary Service (NLS).

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WHEREAS, the City of Lincoln City has authorized a franchise agreement with North Lincoln Sanitary Service pursuant to Lincoln City Municipal Code Chapter 8.16 and Ordinance 2006-11, to carry out the purpose and policies of that chapter; and

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WHEREAS, the franchise agreement provides that North Lincoln Sanitary Service shall provide for the disposal of solid waste; provide the opportunity for recycling; and provide new additional services when proposed by the City of Lincoln City or North Lincoln Sanitary Service; and

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WHEREAS, the city has engaged in discussions with North Lincoln Sanitary Service concerning the provision of a new service to meet the goals of Chapter 8.16 of the Lincoln City Municipal Code to reduce the amount of solid waste generated and to recover resource materials where possible; and

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WHEREAS, following a work session discussion on March 16, 2020, the City of Lincoln City on March 23, 2020 and April 13, 2020 requested and obtained public comment pursuant to ORS 294.160 on the proposed residential compostables collection program and the proposed rate for such program; and

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WHEREAS, a rate increase of \$6.85 per month per residential customer would be necessary to fund this composting collection service; said rate increase will be delayed until March 2021; and

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WHEREAS, the City Council finds there is a public benefit in encouraging composting and reducing solid waste, and the establishment of such a program as proposed furthers the public interest.

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NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN CITY, AS FOLLOWS:

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Section 1. Recitals. The recitals set forth in the Whereas clauses above are true and correct and incorporated herein by this reference.

1 **Section 2. Mandatory Composting Program Authorized.** The City Council authorizes
2 the additional mandatory service of residential compostables collection in accordance with
3 Section 9 of the franchise agreement [Ordinance 2006-11] between the City of Lincoln City
4 and North Lincoln Sanitary Service.

5
6 **Section 3. Rates effective March 2021.** The requested rates increase for mandatory
7 residential compostable collection service upon initiation of the program in March
8 2021 will be increased by \$6.85 at the time that mandatory compostable collection
9 service is initiated as part of those services.

10
11 **Section 4. Ordinance Amendment.** The City Attorney is directed to process an
12 amendment to Chapter 8.16 to expressly include mandatory composting within the
13 accepted exemptions from mandatory garbage collection.

14
15 **Section 5. Effective Date.** The Resolution shall take effect upon approval,
16 however rates shall not be imposed until initiation of the compostable
17 collection service in March 2021.

18
19 PASSED AND ADOPTED by the Lincoln City City Council on April 13, 2020.

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24 _____
25 Dick Anderson, Mayor

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27 ATTEST:

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30 _____
31 Cathy Steere, City Recorder

ORDINANCE NO. 2006 - 11

AN ORDINANCE OF THE CITY COUNCIL OF LINCOLN CITY, OREGON,
GRANTING A SOLID WASTE FRANCHISE TO DUNN-LEBLANC, INC. DBA
NORTH LINCOLN SANITARY SERVICE, AND FIXING TERMS, CONDITIONS
AND COMPENSATION OF SUCH FRANCHISE, AND SUPERCEDING
ORDINANCE NO. 2003-18

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. Purpose of Ordinance. The solid waste franchise previously issued to
Dunn-Leblanc, Inc., dba North Lincoln Sanitary Service in Ordinance No. 2003-18 is
hereby renewed and amended by this ordinance. The City Council is amending the
franchise terms to improve solid waste collection in the City.

Section 2. Policy – Finding.

A. It is declared to be the policy of the city to regulate solid waste management
to:

- 1. Ensure safe, economical and comprehensive solid waste service;
- 2. Ensure that rates are just, fair, reasonable and adequate to provide necessary
public service;
- 3. Prohibit rate preferences and other discriminatory practices;
- 4. Provide for technologically and economically feasible recycling and resource
recovery by and through a franchisee in a coordinated county-wide program;
- 5. Protect public health and the environment;
- 6. Provide public service standards;
- 7. Protect against improper and dangerous handling of hazardous wastes;
- 8. Provide a basis and incentive for investment in solid waste equipment,
facilities, sites and technology.

B. The achievement of this policy requires that the whole city be treated as a
single service area for solid waste management service; that there be a single provider of
solid waste management service within the city; and that there be compulsory and
universal participation in solid waste collection and disposal within the city.

1 **Section 3. Definitions.**

2 As used in this ordinance:

3 -"Affiliated person" means a person that shares costs with the franchisee with
4 respect to the service provided under this ordinance and that is either the parent company
5 of the franchisee, a subsidiary of the parent company of the franchisee, or a company of
6 which 30 percent or more of the common stock or other ownership interest is owned or
7 controlled by the franchisee or by a person or persons who own or control 30 percent or
8 more of the common stock of the franchisee.

9 -"Allowable expenses" means expenses incurred by the franchisee in the
10 performance of its obligations under this ordinance to the extent that the expenses are
11 known and measurable; are calculated according to generally accepted accounting
12 principles on an accrual basis; do not exceed the fair market value of comparable goods,
13 equipment, facilities or services; are commercially reasonable and prudently incurred by
14 the franchisee solely in the course of performing its obligations under this ordinance; and
15 are not unallowable expenses. Allowable expenses, as so qualified, shall include, but are
16 not limited to, the following:

17 1. Costs of complying with laws, regulations and orders;

18 2. Disposal costs;

19 3. Labor costs, including for supervisory labor, and third party transportation costs
20 for recyclable materials. Labor costs include workers compensation costs and employee
21 benefits.

22 4. Vehicle and equipment costs, including costs for vehicle registration fees,
23 motor fuel, oil, tires, and repair and maintenance.

24 5. Costs of maintaining, repairing and replacing capital equipment and assets.

25 6. Depreciation and amortization of capital assets, including any necessary stand-
26 by or back-up equipment used on a regular and ongoing basis in the provision of service
27 under this ordinance, over the standard economic useful lives of the various assets. The
28 city shall set the standard economic useful lives of the assets, taking into consideration,
29 among other things, industry input and prevailing practices.

30 7. Costs of insurance, at a minimum in the amounts and with the coverage
31 required by this ordinance.

1 8. Administrative costs related to data processing, billing and supplies, finance
2 and accounting, officer salaries, franchise administration, human resource and labor
3 management, rate analysis and regulatory compliance.

4 9. Costs of utilities.

5 10. Training and worker safety costs.

6 11. Advertising, promotion, and public education costs.

7 12. Property or facility rental and lease costs.

8 13. Outside professional fees and costs.

9 14. Debt service expenses, other than debt service expenses associated with
10 purchases of routes or businesses of other service providers, to the extent that the
11 expenses are not in excess of expenses ordinarily incurred for the various types of
12 financing required for purchases or leases at the time of borrowing.

13 15. City franchise fees.

14 16. Costs incurred in collecting, handling, processing, storing, transporting,
15 marketing, selling or otherwise disposing of recyclable materials.

16 17. Surcharges, taxes or fees, other than state or federal income taxes or franchise
17 fees, which are imposed on the franchisee or levied against the franchisee by federal,
18 state or local governments in connection with the franchisee's provision of service under
19 this ordinance.

20 18. Bad debts.

21 19. Other costs determined in advance by mutual written agreement of the city
22 and the franchisee to be reasonable and necessary to the provision of service under this
23 ordinance.

24 --"City" means the city of Lincoln City.

25 --"Council" means the city council.

26 --"CPI" means the Consumer Price Index for All Urban Consumers for West B/C,
All Items (1982-84=100), published by the United States Bureau of Labor Statistics.

--"Customer" means a generator of solid waste to whom the franchisee provides
service under this ordinance.

--"Disposal costs" means the amount paid by the franchisee for the disposal of
solid waste at a disposal site or transfer station.

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–"Fiscal year" means January 1 to December 31.

–"Franchisee" means Dunn-Leblanc, Inc., dba North Lincoln Sanitary Service.

–"Gross revenues" means, for any period, the accrual-based billings by the franchisee during the period to customers for service provided under this ordinance, the accrual-based proceeds during the period from the sales of recycled material collected under this ordinance, and the accrual-based proceeds during the period from any other entity as compensation for services allocated fairly and reasonably to the jurisdiction and customers receiving services.

–"Hazardous waste" means any waste:

- 1. As defined by ORS 466.005; or
- 2. Defined as hazardous waste by another governmental unit having jurisdiction;

or

- 3. Found to be hazardous to service workers, to service equipment, or to the public by the franchisee.

–"Operating ratio" means, for any period, the allowable expenses divided by the gross revenues for the period.

–"Person" means an individual, partnership, association, corporation, trust, firm, estate, or other private legal entity.

–"Recyclable materials" means any material or group of materials as defined in ORS 459.

–"Resource recovery" means the process of obtaining useful material or energy resources from solid wastes, including energy recovery, materials recovery, recycling and reuse of solid wastes.

–"Service" means:

- 1. Collection service - the collection and/or compaction of residential, commercial, drop box and demolition solid waste together with the collection of recyclable materials.
- 2. Disposal service - transportation and disposal of solid waste at a disposal site.
- 3. Resource recovery service - all services incidental to resource recovery.

–"Solid waste" means all putrescible and nonputrescible waste, including but not limited to garbage, rubbish, refuse, ashes, and swill; waste paper and cardboard; grass

1 clippings; compost; residential, commercial, industrial, demolition and construction
 2 wastes; discarded residential, commercial and industrial appliances, equipment and
 3 furniture; discarded, inoperable or abandoned vehicle parts and vehicle tires; manure,
 4 vegetable or animal solid or semisolid waste; dead animals; infectious waste as defined
 5 by Oregon Revised Statutes; and all other wastes not excepted by this definition. Solid
 waste does not include:

- 6 1. Hazardous waste;
- 7 2. Sewer sludge and septic tank and cesspool pumping or chemical toilet waste;
- 8 3. Beverage containers as defined in ORS 459A.700;
- 9 4. Materials used for fertilizer or for other productive purposes or which are
 10 salvageable as such materials are used on land in agricultural operations and the growing
 or harvesting of crops and the raising of fowl or animals.

11 –"Solid waste management" means the prevention or reduction of solid waste,
 12 collection service, management of the storage, compaction, transportation, treatment,
 13 utilization, processing and final disposal of solid waste; and facilities necessary or
 14 convenient to such activities.

15 –"Unallowable expenses" means any of the following:

- 16 1. Political and charitable contributions.
- 17 2. Federal, state, and local income taxes.
- 18 3. Loss on sale of assets.
- 19 4. Officers' life insurance premiums.
- 20 5. Director fees.
- 21 6. Costs, including but not limited to principal and interest, on the purchase of
 equipment or facilities to the extent that the purchase price exceeds the fair market value
 22 of the equipment or facilities at the time of purchase whether due to the inclusion of
 goodwill, a premium in excess of fair market value, or otherwise.
- 23 7. Penalties and fines.
- 24 8. Costs, whether allocated or direct, associated with services that are not
 25 governed by this ordinance.
- 26 9. Accruals for future unknown regulatory charges.

1 10. Costs, including but not limited to principal and interest, related to the
2 acquisition of collection routes.

3 11. Attorney fees and related expenses resulting from a judicial proceeding in
4 which the city and the franchisee are adverse parties, unless the franchisee is determined
5 by the judicial authority to be the prevailing party for attorney fee purposes; or from a
6 judicial proceeding in which the franchisee is determined to be liable due to willful
7 misconduct or gross negligence or is determined to be in violation of any law, statute or
8 regulation.

9 –"Waste" means material that is no longer directly usable by the source, generator
10 or producer of the material, which material is to be disposed of or to be resource-
11 recovered by another person. The fact that all or any part of the material may have value
12 and thus be recovered or that the source, generator or producer of material has separated
13 or segregated such material from other waste does not remove the material from this
14 definition.

15 **Section 3. Exclusive Franchise – Exceptions.**

16 A. Unless as otherwise provided by this Ordinance, no person shall engage in
17 solid waste management without a franchise issued by the City.

18 B. Unless as otherwise provided by this ordinance, no person without a current
19 franchise issued by the City shall take, process, sort, transfer, compact or remove,
20 whether for recycling, reuse, or otherwise, waste or solid waste materials placed out for
21 collection.

22 C. Unless as otherwise provided by this chapter, no person without a current
23 franchise issued by the City, other than the person producing the materials contained
24 therein, shall enter or interfere with any solid waste container, or remove any such
25 container or its contents from the location where the same has been placed by the person
26 producing the contents of such container without first obtaining written consent from the
franchisee of the City.

D. There is granted to franchisee the exclusive right, privilege and franchise to
provide solid waste management, and for the purposes stated in this ordinance to utilize
the streets and facilities of the city. This grant of an exclusive franchise is under the
specific authority of ORS 459A.085; and under that authority, the city recognizes the

1 franchisee as the existing collection service and grants this franchise upon the basis that
2 the whole city is one service area.

3 F. Nothing in this franchise shall:

4 1. Prohibit any person from transporting residential wastes the person produces to
5 an authorized disposal site or resource recovery facility, providing the person complies
6 with Sections 8.16.050(B), (E), and (F) and 8.16.110 of the Municipal Code;

7 2. Prohibit any person from contracting with a state or federal agency to provide
8 service to such agency if such person first applies for and obtains a city franchise for that
9 service only;

10 3. Prohibit any person from engaging in a charitable, civic or benevolent activity;

11 4. Prohibit the generator or producer from transporting and disposing of waste
12 created as an incidental part of regularly carrying on the business or service of auto
13 wrecking, to the extent licensed by the state; demolition, land clearing or construction;
14 janitorial service; gardening, park maintenance or landscaping service; street sweeping;
15 auto body recovery; or septic tank pumping or sludge collection. "Janitorial service" does
16 not include cleanup or compaction of accumulated or stored wastes or solid wastes.

17 **Section 4. Franchise – Term - Renewal.**

18 The rights, privileges, and franchise granted by this ordinance shall begin on the
19 effective date of this ordinance and extend for a term of four (4) years. Beginning on
20 January 1st of each year, the franchise will be considered renewed for a four-year term
21 unless at least 30 days prior to January 1st of any year, one party notifies the other party
22 in writing of its intent to terminate the franchise. Upon the giving of such notice of
23 termination, the franchisee shall have a franchise which will terminate three years from
24 the date of the notice of termination. The parties may thereafter extend the term or
25 reinstate the rolling franchise, conditioning renewal upon mutual agreement. Nothing in
26 this section restricts the City from suspending, modifying or revoking the franchise for
cause, pursuant to Section 9 of this Ordinance.

Section 5. Franchise – Voluntary termination.

A. In the event the franchisee desires to terminate service or solid waste
management service under the terms of this ordinance, then the franchisee shall give the

1 city not less than two years prior written notice of its intent to terminate service and
2 obligations under the franchise.

3 B. In the event of a voluntary termination of the service by the franchisee, the city
4 shall have, for not more than six months following the franchisee's notice of intent to
5 terminate, the first right of refusal and option to purchase all of the equipment and
6 franchise of the franchisee at a price to be agreed upon between the parties.

7 **Section 6. Franchise – Fee.**

8 A. In consideration of the rights, privileges and franchise granted by this
9 ordinance, the franchisee shall pay to the city as a franchise fee five percent of the gross
10 receipts collected by the franchisee for collection service within the city. Nothing in this
11 ordinance shall prevent the council from amending this ordinance from time to time,
12 without the consent of the franchisee, to change the amount or method of computation of
13 the franchise fee.

14 B. Monthly payment shall be accompanied by a complete statement setting forth
15 the gross receipts collected during the preceding month. Upon request from the city, the
16 franchisee shall provide written confirmation or other acceptable means of substantiation
17 of particular items or information being submitted.

18 **Section 7. Responsibilities of franchisee.**

19 The franchisee shall:

20 A. Dispose of wastes collected at a site approved by the local government unit
21 having jurisdiction of, or recover resources from, the wastes, both in compliance with
22 ORS Chapters 459 and 459A and regulations promulgated thereunder;

23 B. Provide and keep in force a public liability insurance policy that provides
24 coverage for bodily injury, including personal injury and property damage insurance, and
25 including automobile coverage, as will protect the franchisee and the city from all things
26 or damage which may arise from operations under the franchise or in connection
therewith, including all operations of subcontractors. Such insurance shall provide
coverage for not less than one million dollars for injury to a single person, one million
dollars to a group of persons within a single occurrence, and one million dollars for
property within a combined single limit. Such insurance shall be evidenced by a copy of
the insurance policy showing the city as an additional insured, filed with the city recorder

1 within thirty days of the granting of a franchise and thereafter upon renewal or
2 modification of the policy. Such insurance shall be maintained in full force and effect and
3 it shall name the city, its officers, agents and employees as an additional insured; and it
4 shall not be modified or canceled without at least thirty days' prior written notice by
5 certified mail to the city;

6 C. Within thirty days after the effective date of this ordinance, file with the city
7 recorder a written acceptance of this franchise;

8 D. Provide service twice weekly to the business district and weekly to residential
9 areas and uses;

10 E. Provide sufficient collection vehicles, containers, facilities, personnel and
11 finances to provide all types of necessary service or subcontract with others to provide
12 such service pursuant to Section 12 of this ordinance;

13 F. Respond promptly and effectively to any written complaint on service;

14 G. Notify customers individually of rescheduling of service due to holidays and
15 temporary closures, if any;

16 H. Provide the opportunity to recycle in accordance with Oregon Revised
17 Statutes. In addition, the franchisee shall comply with any and all rules adopted by the
18 Department of Environmental Quality, if any;

19 I. Provide the city with a complete list of customers and thereafter, monthly
20 statements of starts and stops.

21 **Section 8. Supervision and inspection of franchise operations.**

22 Service provided under the franchise shall be under the oversight of the city
23 manager. The franchisee shall, at reasonable times, permit inspection of its facilities,
24 equipment and personnel providing service.

25 **Section 9. Franchise – Modification, suspension or revocation.**

26 A. Failure to comply with a written notice to provide necessary service or
otherwise comply with the provisions of this ordinance after written notice and a
reasonable opportunity to comply shall be grounds for modification, revocation or
suspension of the franchise.

1 B. After written notice from the city manager that such grounds exist, the
2 franchisee shall have thirty days from the date of mailing of the notice in which to
3 comply or to request a public hearing before the council.

4 C. If the franchisee fails to comply within the specified time or fails to comply
5 with the order of the council entered upon the basis of findings at the public hearing, the
6 council may suspend, modify or revoke the franchise, or make such action contingent
upon continued noncompliance.

7 D. At a public hearing, the franchisee and other interested persons shall have an
8 opportunity to present oral, written or documentary evidence to the council.

9 E. In the event that the council finds an immediate and serious danger to the
10 public through creation of a health hazard, it may take action within a time specified in
the notice to the franchisee, and without a public hearing prior to taking such action.

11 F. The city at any time, by written notice mailed to the franchisee, may initiate
12 negotiations with the franchisee to change the frequency of the curbside recycling service
13 to be provided under Section 15 of this ordinance. If requested by the city or the
14 franchisee, the negotiations also shall include negotiations to amend the rates for service,
15 as established under Section 13 of this ordinance, to reflect changes in the net cost of
16 curbside recycling service due to the changes in frequency of service; and also shall
17 include negotiations on any other changes related to curbside recycling proposed by
18 either the city or the franchisee. If the city and the franchisee do not reach agreement on
19 the matters being negotiated within ninety calendar days following mailing of the notice
20 initiating negotiations, then the city council at any time thereafter, by written notice to the
21 franchisee, may submit the matters to arbitration under the provisions of Section 19 of
this ordinance.

22 **Section 10. Prevention of service interruption.**

23 A. The franchisee agrees as a condition of this franchise that, whenever the
24 council determines that the failure of service or threatened failure of service would result
25 in creation of an immediate and serious health hazard or serious public nuisance, the
26 council may, after a minimum of twenty-four hours actual notice to the franchisee and a
public hearing if the franchisee requests it, authorize another person to temporarily

1 provide the service or to use and operate the land, facilities or equipment of the
2 franchisee through leasing to provide emergency service.

3 B. The council shall return any seized property and business upon abatement of
4 the actual or threatened interruption of service.

5 **Section 11. Termination of service prohibited – Exceptions.**

6 The franchisee shall not terminate service to all or a portion of its customers
7 unless:

8 A. The street or road access is blocked and there is no alternative route, and
9 provided that the city shall not be liable for any such blocking of access;

10 B. Excessive weather conditions render providing service unduly hazardous to
11 persons providing service, or such termination is caused by accidents or casualties caused
12 by an act of God or a public enemy.

13 **Section 12. Subcontracts.**

14 A. The franchisee may subcontract with others to provide a portion of the services
15 where the franchisee does not have the necessary equipment or service. Such a
16 subcontract shall not relieve the franchisee of total responsibility for providing and
17 maintaining service and from compliance with this ordinance.

18 B. Except where emergency service is provided by a subcontractor, such
19 subcontract shall be in writing, shall be filed with the city recorder for any service
20 extending more than ninety days, and shall provide that the subcontractor shall have no
21 claim or right of action whatsoever against the city.

22 **Section 13. Rates.**

23 A. General Approach. The rates that the franchisee shall charge for service shall
24 be the rates as established in accord with this section. The rates shall be set at a level
25 intended to be sufficient for the franchisee to attain an operating ratio, on average, of 0.88
26 and at all times to have an operating ratio in the range of 0.85 to 0.91. The rates shall be
all inclusive, covering all monies to be collected by the franchisee for the services
provided under this ordinance except for the interest that the franchisee collects on past
due accounts. Although this section sets out specific requirements and procedures related
to the franchisee's rates, the city shall have the authority to establish more detailed
requirements and procedures related to rates so long as they are consistent with the

1 specific requirements and procedures set out in this section; and the franchisee shall be
2 obligated to comply with those more detailed requirements and procedures.

3 B. Allocation of Common Resource Costs.

4 1. The franchisee and its affiliated companies may use common resources, such as
5 equipment, fuel, labor, management, and administration, to provide service to the city
6 and other nearby jurisdictions. In such cases, it will be necessary to allocate the costs of
7 the common resources among the jurisdictions they serve. The franchisee and the city
8 shall mutually agree, in writing, on an allocation formula, which may be amended on the
9 mutual written agreement of the franchisee and the city, and which shall be applied, as
10 amended, in determining allowable expenses.

11 2. Except as provided in this subsection, three factors shall be used to allocate the
12 costs of common resources. The factors, and their use, shall be as follows:

13 a. Labor hours: Labor costs shall be allocated based on labor hours. Vehicle costs
14 also shall be allocated based on labor hours, as a substitute for engine hours. If, on the
15 mutual written agreement of the operator and the city, labor hours and engine hours
16 would not be materially similar, then vehicle costs shall be allocated based on engine
17 hours.

18 b. Weight: Disposal costs shall be allocated based on relative average vessel
19 weights per route.

20 c. Customer base: General, administrative, and management costs shall be
21 allocated based on customer counts.

22 3. The methods for collecting the data for the factors described in subsection 2 of
23 this section shall be as follows:

24 a. Labor hours: A "time on route" form shall be completed by route drivers one
25 week each quarter. The time on route data then shall be summarized and averaged for
26 four quarters for application to the annual accounting data, or summarized and applied to
the specific quarterly accounting data.

b. Weight: Quarterly weight statistics shall be generated by the franchisee to
determine quarterly average vessel weights. These quarterly average vessel weights then
shall be applied to route list customer data to determine relative average vessel weights

1 per route. These relative average vessel weights per route then shall be applied to the
2 disposal cost.

3 c. Customer base: Customer counts shall be determined from computer reports
4 generated by the franchisee in conjunction with billing and route list preparation.

5 4. The factors described in subsection 2 of this section shall be determined and
6 applied to the common resource costs on a periodic basis. Test periods shall be used, at
7 least quarterly, to collect these data.

8 C. Annual Report of Operations. On or before April 1, 2004, and on or before
9 each April 1 thereafter during the franchise term, the franchisee shall submit to the city an
10 annual report of operations as described in Section 21(E) of this ordinance.

11 D. Cost of Living Rate Adjustment. Except as provided in this subsection E, a
12 cost of living rate adjustment shall be made every other year in accord with the following
13 procedure:

14 1. On July 1, 2004 and on or before July 1 of each even numbered year thereafter
15 throughout the term of the franchise (the CPI adjustment date), the then current rates shall
16 be adjusted by an amount equal to 85 percent of the two-year percentage change in the
17 CPI, based on a comparison of the CPI for April of the current year to the CPI for April
18 two years earlier. The adjustment, however, shall not exceed six percent for any two-year
19 period. In addition, if the adjustment would cause the franchisee's projected operating
20 ratio to be less than 0.85, then the adjustment shall be limited to that percentage that will
21 cause the franchisee's projected operating ratio to be 0.85. If, at the time of a CPI
22 adjustment date, a rate adjustment occurred in the previous year as the result of a
23 proceeding under subsection E of this section, then the CPI-based adjustment under this
24 subsection shall be based on the most recent one year change in the CPI rather than on
25 the two year change. In addition, no CPI rate adjustment shall be made for a year in
26 which a rate review proceeding occurs under subsection E of this section.

2. On or before June 1 preceding each CPI adjustment date, the franchisee shall
give to the city a proposed revised rate schedule reflecting its rates as adjusted in accord
with subsection D(1) of this section.

3. The council, on or before June 30 preceding a CPI adjustment date, shall adopt
a resolution either approving the franchisee's proposed revised rate schedule or, if the

1 council determines that the proposed revised rate schedule is not consistent with
2 subsection D(1), approving a revised rate schedule that is consistent with subsection D(1).

3 4. The rate schedule approved by the council under subsection D(3) shall be
4 effective as of the CPI adjustment date that immediately follows the approval.

5 5. If the Bureau of Labor Statistics stops publishing or changes the method for
6 calculating the CPI, the franchisee and the city shall mutually agree in writing on a
7 suitable replacement index that reflects the cost of living in the franchise area.

8 E. Regular Proceedings to Consider Rate Adjustments. If the franchisee's annual
9 report of operations submitted under subsection C of this section projects that the
10 franchisee's operating ratio for the current fiscal year will be less than 0.85 or greater than
11 0.91, then there shall be a rate review proceeding in accord with this subsection E. In
12 addition, following receipt of the report there shall be a rate review proceeding in accord
13 with this subsection if it has been five years since the last rate review under this
14 subsection. In the event of a rate review as required by this subsection, the procedure
15 shall be as follows:

16 1. The city shall review the franchisee's annual report of operations and such other
17 information as the city deems appropriate and, if the city finds that the franchisee's
18 operating ratio for the current fiscal year is likely to be less than 0.85 or more than 9.01,
19 then the city, on or before the June 30 following receipt of the report, shall adopt a
20 resolution setting revised rates, either as proposed by the franchisee in the report or as
21 modified by the city. The revised rates shall provide the franchisee with a projected
22 operating ratio of 0.88. The revised rates shall be effective as of the July 1 that
23 immediately follows the approval.

24 2. If the city finds that the franchisee's operating ratio for the current fiscal year is
25 not likely to be less than 0.85 or more than 0.91, then the current rates shall not be
26 adjusted but rather shall continue in effect until next adjusted in accord with this section.

27 F. Rate Adjustments for Legislated Cost Impacts.

28 1. If the franchisee, at any time, becomes liable to pay any new or increased
29 legislated allowable expenses, including surcharges, fees, or expenses associated with
30 regulatory requirements, or any new or increased disposal or long-haul transportation
31 costs, and if these new or increased allowable expenses are in excess of three percent of

1 the franchisee's gross revenue, then the franchisee shall give the city documentation of
 2 the new or increased allowable expenses, of the franchisee's liability to pay them, and of
 3 the franchisee's gross revenues, and also shall give the city a proposed revised rate
 4 schedule to allow the franchisee to recover the new or increased allowable expenses.
 5 Within 45 days of receipt of the documentation, the council shall adopt a resolution,
 6 including an effective date, either approving the proposed revised rate schedule or
 7 approving an alternative revised rate schedule that will allow the franchisee to recover the
 8 new or increased allowable expenses.

9 2. If the franchisee, at any time, experiences a reduction in legislated allowable
 10 expenses, and if the reduction is in excess of three percent of the franchisee's gross
 11 revenue, then the franchisee immediately shall give the city documentation of the reduced
 12 allowable expenses and of the franchisee's gross revenues and also shall give the city a
 13 proposed revised rate schedule to pass the reduction on to rate payers. Within 45 days of
 14 receipt of the documentation, the council shall adopt a resolution, including an effective
 15 date, either approving the proposed revised rate schedule or approving an alternative
 16 revised rate schedule that will pass the reduction on to rate payers.

17 G. Customer Deposits. The franchisee may require an advance deposit only from
 18 customers who have been terminated for failure to pay for the service previously or new
 19 customers who are not willing or able to provide, on request from the franchisee,
 20 satisfactory proof of financial ability to pay for service.

21 **Section 14. Minimum level of service.**

22 The minimum level of service to any dwelling or other property, including
 23 commercial uses, is one pickup of solid waste container per two-week interval, except as
 24 provided in Sections 8.16.110 and 8.16.120 of the Municipal Code. The minimum level
 25 of service, however, is subject to the provisions of the Oregon Revised Statutes and
 26 regulations promulgated pursuant thereto.

Section 15. Recycling service.

A. The franchisee shall maintain its Highway 101 Recycling Center to provide for
 customer comfort and convenience, to provide adequate storage space for recyclable
 materials, and to permit two vehicles at a time to off-load recyclable materials under
 cover.

1 B. The franchisee shall work to increase public awareness of residential recycling
2 service.

3 C. The franchisee shall provide, at the request of and at no cost to each city
4 residential customer, an eighteen-gallon plastic container for that customer's residential
5 household account. The franchisee shall provide free weekly curbside recycling service to
6 those households provided and using the plastic containers. The franchisee shall not
7 curtail or terminate curbside recycling service to any customer due to the customer's
8 failure to use the curbside recycling service regularly.

9 **Section 16. Franchise – Transferability.**

10 A. The franchise may not be sublet, sold, leased, assigned or otherwise
11 transferred, nor may any of the rights or privileges granted by the franchise be sublet,
12 leased, assigned, sold or transferred, either in whole or in part, without the prior written
13 consent of the city. The granting of consent in one instance shall not render consent
14 unnecessary in any other instance. Such consent shall not be withheld unreasonably.

15 B. Within sixty days of any transfer request approved by the city, the franchisee
16 shall file with the city a copy of the deed, agreement, lease or other written-instrument
17 evidencing such sale, lease, assignment or transfer, certified and sworn to as correct by
18 the franchisee. Every such transfer as described in this section, whether voluntary or
19 involuntary, shall be deemed void and of no effect unless the franchisee obtains approval
20 from the city and files such certified copy.

21 **Section 17. Indemnity and hold harmless.**

22 Notwithstanding the provision of insurance by the franchisee, the franchisee shall
23 defend, indemnify and save the city harmless from liability or loss because of injury,
24 including death, to any person or damage to any property that may occur or may be
25 alleged to have arisen out of connection with, or related to performance of service as a
26 result, directly or indirectly, of the acts or omissions of the franchisee or its
subcontractors or their servants, agents or employees, and whether or not such injury or
damage is jointly attributable to the city's fault or negligence. This obligation shall
survive modification, termination or transfer of the franchise. In any and all claims
against the city or its agents or employees, these indemnification obligations shall not be
limited in any way by any limitation in the amount or type of damages, compensation or

benefits payable by or for contractors, workers' compensation acts, disability acts or other employee benefits.

Section 18. Severability.

Any finding by any court of competent jurisdiction that any portion of this ordinance is unconstitutional or invalid shall not invalidate any other provision of this ordinance.

Section 19. Arbitration.

In the event of any dispute between the city and the franchisee arising under this ordinance, the city and the franchisee by mutual written agreement may agree to arbitration of the dispute under the provisions of this section. In addition, as provided in Section 9(F) of this ordinance, the city by written notice to the franchisee may submit certain curbside recycling matters to arbitration under the provisions of this section.

Arbitrations under the provisions of this section shall be conducted as follows:

A. The city and the franchisee shall continue performance of their respective obligations under this ordinance pending an arbitration decision.

B. Within fifteen days after the date of the arbitration agreement entered into under this section or of the city's written notice submitting a matter to arbitration under Section 9(F), the city and the franchisee, each by written notice to the other, shall submit the name of an arbitrator it has selected. Within thirty days after the date of the agreement or city notice, the two arbitrators shall select a third arbitrator by mutual agreement. In the event the two arbitrators are not able to agree on a third arbitrator, then the third arbitrator shall be appointed by the presiding civil judge of the Lincoln County Circuit Court.

C. Within seventy-five days after the date of the arbitration agreement entered into under this section or of the city's written notice submitting a matter to arbitration under Section 9(F), the arbitrators shall complete any arbitration hearings. Within ninety days after the date of the agreement or notice, the arbitrators shall make their decision.

D. The decision of the arbitrators in a matter being arbitrated in accord with an arbitration agreement entered into under this section shall be final and binding on the parties, and a judgment on the arbitration award may be entered in the Lincoln County Circuit Court.

1 E. The decision of the arbitrators in a matter being arbitrated in accord with a city
 2 written notice submitting the matter to arbitration under Section 9(F) shall be final and
 3 binding on the parties, and a judgment on the arbitration award may be entered in the
 4 Lincoln County Circuit Court, unless the city, within thirty days after the date of the
 5 award by written notice to the franchisee, declines to accept the award. In the event the
 6 city declines to accept the award, then the franchisee's obligations as to curbside
 7 recycling shall continue as in effect prior to the city's initiation of negotiations under
 8 Section 9(F).

9 F. The city and the franchisee each shall be responsible for paying any
 10 compensation due for the arbitration to the arbitrator it selected. The city and the
 11 franchisee each shall pay one-half of the compensation due to the third arbitrator. The
 12 city and franchisee each shall be responsible for paying its own attorney fees, witness
 13 costs and expenses, and other costs and expenses incurred in participating in the
 14 arbitration proceeding.

15 G. The time limits established by this section may be extended only by mutual
 16 written agreement of the city and the franchisee.

17 **Section 20. Lincoln City Municipal Code Chapter 8.16.**

18 The provisions of Municipal Code Chapter 8.16 applicable to the franchisee, as
 19 amended by an ordinance adopted prior to or on the same date as adoption of this
 20 ordinance, are incorporated herein by reference.

21 **Section 21. Records and Reports.**

22 A. General Requirement for Maintenance of Records and Collection of Data. The
 23 franchisee shall maintain accounting, statistical, operational, and other records related to
 24 and documenting its performance under this ordinance. In addition, the franchisee shall
 25 conduct data collection, information and record keeping, and reporting activities needed
 26 to comply with applicable laws and regulations and to meet the reporting needs of the
 city. In this regard, the requirements set out in this section shall not be considered
 limiting or necessarily complete. In particular, this section is intended only to highlight
 the general nature of reports and records to be maintained by the franchisee and is not
 intended to define exactly what the reports and records are to be or their content. Further,
 on written direction from or with the written approval of the city, the reports and records

1 to be maintained and provided by the franchisee in accord with this ordinance shall be
2 adjusted by the franchisee in number, format, or frequency, including, if so directed, their
3 complying with a uniform system of bookkeeping and record keeping required by the
4 city. This is not intended, however, to require significant additional administrative labor
or the modification of the franchisee's computer software.

5 B. Specific Record Requirements. Specific records maintained by the franchisee
6 shall include records of the following:

- 7 1. Customer service and billing;
- 8 2. Revenues;
- 9 3. Weight and/or volume of solid waste collected and disposed and recyclable
materials;
- 10 4. Routes;
- 11 5. Facilities, equipment and personnel used;
- 12 6. Facilities and equipment operations, maintenance and repair;
- 13 7. Customer issues; including complaints; and
- 14 8. Missed pick-ups.

15 C. Solid Waste Disposal Records. The city views the ability to defend against
16 litigation brought under the Comprehensive Environmental Response, Compensation, and
17 Liability Act of 1980 (42 U.S.C. § 9601 et seq.) and other related litigation as a matter of
18 great importance. For this reason, the city regards the ability to prove where solid waste
19 collected in the city was taken for disposal, as well as where it was not taken, to be
20 matters of concern. The franchisee therefore shall maintain data retention and
21 preservation systems that can establish where solid waste collected in the city was
22 disposed of, by land fill or otherwise, and therefore where it was not disposed of. The
23 records shall cover disposal of all solid waste collected in the city during the term of the
24 franchise. The records shall be in chronological order and organized in a form and
25 manner that is capable of easily and readily being understood and interpreted. The
26 franchisee shall provide copies of such records to the city, within 30 days of expiration of
the franchise. Further, if the franchisee discontinues service to the city at a sooner time,
the franchisee shall provide copies of such records to the city, within 30 days of
discontinuing service.

1 D. Official Communications. The franchisee shall provide to the city a copy of
 2 each report, pleading, application, notification, notice of violation, and each other formal
 3 action relating specifically to the franchisee's performance of services pursuant to this
 4 ordinance, submitted by the franchisee to or received by the franchisee from the United
 5 States Environmental Protection Agency, the Oregon Department of Environmental
 6 Quality, or any other federal, state, or local agency, including those filed in federal or
 7 state court actions brought by any of these agencies, with regard to the franchisee's
 8 operations within the State of Oregon. Copies shall be submitted to the city
 9 simultaneously with franchisee's filing or submission of such matters with the agency or
 10 court. The franchisee's routine correspondence to an agency or court need not be
 11 submitted to the city but shall be made available to the city on the city's written request.

12 E. Franchisee's Annual Report of Operations. The franchisee's annual report of
 13 operations described in Section 13(C) of this ordinance shall be prepared by the
 14 franchisee's certified public accountant, in a format approved by the city, and shall
 15 include the following:

- 16 1. Financial statements for the franchisee for the preceding fiscal year;
- 17 2. Schedules for the preceding fiscal year showing actual revenues; actual
 18 allowable expenses including, separately stated, new, increased, or reduced legislated
 19 allowable expenses covered by Section 13(F) of this ordinance; actual allocated common
 20 resource costs and the allocation formula used to allocate the costs; and the actual
 21 operating ratio;
- 22 3. Equipment and depreciation schedules and equipment replacement projections
 23 for the current fiscal year. This shall include a list of the vehicles used by the franchisee
 24 within the city including vehicle make, year of manufacture, model name, vehicle
 25 identification number, and PUC number;
- 26 4. Projected allowable expenses, including, separately stated, new, increased, or
 reduced legislated allowable expenses covered by Section 13(F) of this ordinance, for the
 current fiscal year;
- 5. Projected allocated common resource costs and the projected allocation
 formula to be used to allocate the costs, for the current fiscal year;
- 6. Projected gross revenue for the current fiscal year;

1 7. The projected operating ratio for the current fiscal year; and

2 8. A proposed rate schedule to be effective July 1, consistent with Section 13 of
3 this ordinance, with the rationale that supports the proposed rates.

4 F. Record Retention. The franchisee shall retain its records related to the franchise
5 for at least five years after the expiration of the franchise, with the exception of accounts
6 payable records, which the franchisee shall retain for at least three years after payment.

7 G. Inspection of Records. The city and its agents or employees, on reasonable
8 notice and during normal business hours, may review and audit the records of the
9 franchisee related to the franchise.

10 H. Confidential Records. The franchisee may mark records to be reviewed by the
11 city and information submitted to the city as confidential. The city shall treat any records
12 and information marked confidential as being confidential and shall not subject the
13 marked records or information to public disclosure, except as required by the Oregon
14 Public Records Law or other law, the rules of discovery in litigation, or a court order. If
15 the city receives a request for disclosure of records or information marked as confidential,
16 the city shall notify the franchisee within five business days of receiving the request, in
17 order to allow the franchisee a reasonable opportunity to defend against the requested
18 disclosure through an appropriate legal process.

19 I. Failure to Provide Reports or Information; False or Misleading Reports or
20 Information. The refusal or willful failure of the franchisee to file any required report, to
21 provide required information, or to maintain required records, or the inclusion in a report,
22 information or record of any materially false or misleading statement or representation by
23 the franchisee, shall be a material breach of this ordinance. If the franchisee or any
24 employee or agent of the franchisee, in any rate review proceeding under Section 13 of
25 this ordinance, makes a deliberate or malicious material misrepresentation of the books,
26 records, accounts or data relating to the proceeding, then in addition to other penalties the
franchisee may suffer as a result thereof, the franchisee shall pay all costs incurred by the
city in the proceeding.

Section 22. The terms of this franchise renewal are intended to take effect January 1,
2007.

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Section 23. Acceptance by franchisee. Within thirty days of the effective date of this ordinance, the franchisee shall sign an acceptance of this ordinance and return the acceptance to the City Recorder. If the ordinance is not accepted within sixty (60) days of its adoption, the ordinance shall be void and have no further effect.

Section 24. Ordinance effective date. This ordinance shall take effect thirty days after adoption.

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 11th day of December, 2006.

Lori Hollingsworth
LORI HOLLINGSWORTH, MAYOR

ATTEST:

Cathy Steere
CATHY STEERE, CITY RECORDER

ACCEPTANCE OF ORDINANCE NO. 2006-11

TO HONORABLE MAYOR LORI HOLLINGSWORTH AND CITY COUNCIL OF THE CITY OF LINCOLN CITY, OREGON:

Dunn-LeBlanc DBA North Lincoln City Sanitary, a corporation, hereby unconditionally accepts Ordinance No. 2006-11 of the City of Lincoln City and all the terms, provisions, and conditions thereof.

Ordinance No. 2006-11 is entitled:

AN ORDINANCE OF THE CITY COUNCIL OF LINCOLN CITY, OREGON, GRANTING A SOLID WASTE FRANCHISE TO DUNN-LEBLANC, INC. DBA NORTH LINCOLN SANITARY SERVICE, AND FIXING TERMS, CONDITIONS AND COMPENSATION OF SUCH FRANCHISE, AND SUPERCEDING ORDINANCE NO. 2003-18

Ordinance No. 2006-11 was duly passed by the Council and approved by the Mayor of Lincoln City on December 13, 2006 and by law takes effect 30 days after adoption.

IN WITNESS WHEREOF Dunn-Leblanc, Inc. has caused this acceptance of Ordinance No. 2006-11 to be signed by its President, and its corporate seal to be affixed hereto and attested by its Secretary, this 19 day of December 2006.

ATTEST:

DUNN-LEBLANC, INC.

[Signature]
Secretary

[Signature]
President

This Acceptance was received this 20th day of December 2006.

[Signature]
Cathy Steere, City Recorder
City of Lincoln City

Acceptance of Ordinance No. 2006-11 Franchise Agreement by Dunn-Leblanc, Inc DBA North Lincoln Sanitary Service

Begin forwarded message:

From: Tina French <tfrench@northlincolnsanitary.com>
Date: March 17, 2020 at 12:03:00 PM PDT
To: Ronald Chandler <rhandler@lincolncity.org>, "danderson@lincolncity.org" <danderson@lincolncity.org>
Subject: Compost/Food Collection Program

Good morning,

Lon and I got to talking yesterday after we left the work session about commercial customers. We think it would be a great idea to offer all commercial customers a Yard Debris Only roll cart, no food waste.

So the program would look like this:

10% increase for all residential and commercial customers
All residential customers would get a 96 gallon roll cart for yard waste and food waste
All commercial customers could get a 96 gallon roll cart for yard waste only

By doing it this way the cost is spread out over the commercial and residential customer base, keeping the rate much lower than a residential rate increase only (\$6.85). This way the commercial customers are getting something for their 10% increase, and we do not have to worry about increased expenses from PRC for having a commercial food waste collection program.

Let me know what you think?

I apologize that I am not going to be able to be at the meeting on Monday. I would be happy to be available by Facetime, Skype, conference call or whatever method you have available at the meeting. Please do not hesitate to call or email me with questions or ideas.

Best,

Tina

Tina French
 North Lincoln Sanitary Service
 1726 SE Hwy 101
 Lincoln City, Or 97367
 Office 541-994-5555
 Fax 541-994-5525
 Cell 541-992-4994



Council Communication

A Call for Artists Finalist Recommendation

Meeting Date: April 13, 2020 Primary Staff Contact: Liz Francis
 Department: Public Arts Committee E-Mail: lfrancis@lincolncity.org
 Secondary Dept: Secondary Contacts:
 Approval: Ronald F Chandler Estimated Time: 10 min

Question:

Should the City Council approve the Public Arts Committee's recommendation to negotiate a contract with Pete Beeman as the artist of record for the Art installation at the Lincoln City Cultural Center.

Staff Recommendation:

Staff recommends the Council authorize staff to negotiate a contract with artist Pete Beeman for the art installation project at the proposed cultural center location, to be funded by the restricted fund – "Percent for Arts" budget line item.

Authority:

The Public Arts Committee was created to act as an advisory committee to the city council on matters related to art and to act as an advisory committee to the city on the acquisition of public works of art under the percent for art program established by Chapter 3.24 LCMC.

3.24.030 Percent for art requirement.

One-half percent of the construction of each major construction project shall be used for **the acquisition of a work or works of art to be owned by the city and to be displayed in an area or areas frequently visited by the public within the city limits**, whether or not such area or areas are at the site of the major construction project. **(Emphasis added)**

Background:

As part of its Public Art Master Plan, adopted in 2018, the Public Arts Committee by and through Explore Lincoln City intends to commission an engaging and remarkable public

art installation, with a budget of \$70,000-\$120,000. This commission will be the first major artwork for the new Lincoln City Cultural Plaza, slated for construction in 2020 (see link below).

Explore Lincoln City, in accordance with the personal services contract procedures in LCMC Chapter 2.05, issued an RFP for artist services. The City Manager and the Explore Lincoln City Director sought the assistance of the Committee in the RFP selection process. The result of the selection process is the recommendation to select Artist Pete Beeman. As the contract price and terms have not yet been negotiated, and the contract will likely exceed the City Manager's contract authority, the contract will need to return to Council for approval as the Local Contract Review Board.

Council Options:

- 1) Approve the recommendation to contract with Pete Beeman.
- 2) Do not approve the recommendation to contract with Pete Beeman and have the Public Arts Committee make another recommendation.
- 3) Postpone decision and discuss Council's available options including but not limited to a change in the project's location (must be consistent with Arts Master Plan) and other possible artists or projects.

Financial Impact

The money to fund this art installation project is coming from the restricted Percent for Arts budget currently slated at \$70,000-\$120,000. Budget to be determined during contract negotiation with artist. City Manager contract authority for personal services caps at \$50,000.

Motions

Move to authorize staff to negotiate a contract with Artist Pete Beeman for art installation at the Cultural Center, subject to City Council or City Manager approval (depending on negotiated contract price) of a personal services contract in the city standard form in accordance with Chapter 2.05, said contract to include waiver of VARA rights by Artist.

Attachments:

Cultural Center Project

Council Communication

Order 2020-01 - Lease Extension McKay's

Meeting Date:	April 13, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Administration	Secondary Contacts:	Ronald Chandler
Approval:	Ronald F Chandler	Estimated Time:	5 mins.

Question: Should the City Council approve Order 2020-01 granting a six month lease extension for McKay's Market, Inc. under the same terms and conditions?

Staff Recommendation:

Staff recommends Council approve Order 2020-01 to facilitate negotiations between the parties on a new lease.

Authority:

ORS 271.360 (A lease must be approved by Order or Ordinance of the City Council).

Background:

The current Price and Pride (McKay's) Lease expires April 16, 2020. A new lease has been provided for review and is currently being negotiated. As it appears likely an agreement will not be reached before the expiration, City staff recommends an extension be granted under the same terms and conditions as the existing lease.

Council Options:

1. Approve extension.
2. Do not approve extension.

Potential Motions:

Motion to approve Order 2020-01 granting a six month extension of the existing lease under the same terms and conditions.

Attachments:

Order 2020-01 McKay's lease extension -3-18-20 ra (DOC)

1 ACCEPTED AND APPROVED BY MCKAY'S MARKET, INC., THIS ____ day of _____,
2 2020.

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By: _____

McKay's Market's Inc. dba "Price 'N Pride"
226 Hall Avenue
P.O. Box 1080
Coos Bay, Oregon 97420
Title:

Council Communication

Annex 2020-01/CPA&ZC 2020-02 Woods Annexation

Meeting Date:	April 13, 2020	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

Due to the COVID-19 pandemic, the Planning Commission meetings on March 17, 2020, April 7, 2020, and April 21, 2020 have been cancelled. Accordingly, the Planning Commission has been unable to deliberate and make a recommendation on Annex 2020-01/CPA&ZC 2020-02. The Planning Commission is tentatively scheduled to deliberate and make a recommendation on this case on May 5, 2020.

Staff requests that City Council continue this public hearing to June 8, 2020, to allow time for the Planning Commission to provide City Council with a recommendation on this project.

Potential Motion: Move to continue the public hearing for Annex 2020-01/CPA&ZC 2020-02 Woods Annexation to June 8, 2020, at 6:00 p.m. in the Council Chambers.

Council Communication

CPA & ZC 2020-01 Scrutton zone change

Meeting Date:	April 13, 2020	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

Due to the COVID-19 pandemic, the Planning Commission meetings on March 17, 2020, April 7, 2020, and April 21, 2020 have been cancelled. Accordingly, the Planning Commission has been unable to deliberate and make a recommendation on CPA&ZC 2020-01. The Planning Commission is tentatively scheduled to deliberate and make a recommendation on this case on May 5, 2020.

Staff requests that City Council continue this public hearing to June 8, 2020, to allow time for the Planning Commission to provide City Council with a recommendation on this project.

Potential Motion: Move to continue the public hearing for CPA&ZC 2020-01 Scrutton zone change to June 8, 2020, at 6:00 p.m. in the Council Chambers.

Council Communication

Budget Transfer for FY2019-20

Meeting Date:	April 13, 2020	Primary Staff Contact:	Debbie Bridges
Department:	Finance	E-Mail:	dbridges@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	15 minutes

Authority:

ORS 294.463 provides for transfers of appropriations within a fund or between funds.

Background:

Following are the items for which staff is requesting appropriation changes in the FY2019-20 budget.

General Fund

- 1) Resolution 2020-01 provided appropriation for \$500,000 to participate in the PERS match program. This request is to move the \$300,460 that was appropriated to the General Fund Non-Departmental department to the individual departments in the General Fund.
- 2) Staff is requesting use of contingency funds of \$35,720 to provide funding for purchase of two Polaris Ranger vehicles.

Parks Operation and Capital Funds

Staff is proposing moving the \$97,809 of marijuana tax that is currently appropriated in the Parks Capital fund to the Parks Operations Fund, to provide funding for transient camp clean ups.

Council Options:

1. Approve Resolution 2020-08.
2. Modify Resolution 2020-08.
3. Don't approve Resolution 2020-08.

Attachments:

Resolution 2020-08 - Budget Transfer FY2019-20 (DOC)

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RESOLUTION 2020-08

**A RESOLUTION AUTHORIZING AND DIRECTING BUDGET TRANSFERS
FOR THE CITY OF LINCOLN CITY, OREGON IN THE 2019-2020 FISCAL YEAR
BUDGET**

WHEREAS, the Finance Director has proposed certain budget appropriation transfers within the funds of the 2019-2020 Lincoln City budget; and

WHEREAS, the changes in departmental needs and staffing have resulted in needed changes to previously budgeted appropriations; and

WHEREAS, Oregon Budget Law allows the transfers of appropriations within a given fund when authorized by an official resolution of the City Council; and

WHEREAS, the City routinely budgets certain amounts and contingencies to provide budget resources to fund appropriations not anticipated at the time of adoption of the budget; and

WHEREAS, said transfers of appropriations are needed and will be used for purposes consistent with originally authorized expenditures in the budget; and

WHEREAS, said proposed budget appropriation transfers are set forth in the attached Exhibit "A"; and

WHEREAS, it appears to this Council that said proposed budget appropriation transfers are appropriate and should be made in conformance with the provisions of Oregon Revised Statutes 294.463.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln City, that the proposed budget transfers for Lincoln City 2019-2020 Budget are hereby ratified and approved and the Finance Director is hereby authorized and directed to make said appropriation transfers.

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EXHIBIT A
SUMMARY OF BUDGET TRANSFERS

FUND: GENERAL FUND

Resource	Amount	Expenditure	Amount
1		1 General Fund Non-Dept	-300,460
2		2 City Administration	21,147
3		3 Finance	24,824
4		4 Library	26,745
5		5 Municipal Court	684
6		6 City Attorney	10,177
7		7 Planning	13,541
8		8 Building Inspection	3,590
9		9 Economic Development	3,291
10		10 Police	179,586
11		11 Dispatch	28,803
12		12 Recreation Department	23,792
14		14 Contingency	-35,720
Revised Total Resources		Revised Total Requirements	
	16,798,178		16,798,178

To allocate PERS Match to General Fund departments. To provide appropriation to Police to purchase two Polaris Ranger vehicles.

FUND: PARK OPERATIONS FUND

Resource	Amount	Expenditure	Amount
1 Transfer from General Fund	97,809	1 Materials and Services	97,809
Revised Total Resources		Revised Total Requirements	
	2,568,216		2,568,216

To move transfer from General Fund from Parks Capital Fund to Park Operations fund to provide appropriation for transient camp cleanups.

FUND: PARKS CAPITAL FUND

Resource	Amount	Expenditure	Amount
1 Transfer from General Fund	-97,809	1 Capital Outlay	-97,809
Revised Total Resources		Revised Total Requirements	
	546,355		546,355

To remove transfer in from General Fund.

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Council Communication

Council Priorities and Goals

Meeting Date:	April 13, 2020	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

The City Council developed the following goals in February. I recommend you discuss this item with the Financial Aid request agenda item.

City Council Priorities and Goals – Fiscal Year 2020-2021 2/3/2020

Code Enforcement

- Approach - Be proactive in enforcing City Codes
- Prioritize City Codes for enforcement – (include TRT Enforcement in the prioritization)
- Develop/Implement Traffic Calming Measures (i.e. uniform speed limit, speed reduction and/or traffic calming devices)
- Provide information to the City Council about a municipal court

Community Engagement

- Overall goal – improve communication with constituents
- Be more active in encouraging the County to extend services to Lincoln City
- Continue developing and using social media as a form of communication.
- Review and refine Council Casper's recommendations – present to City Council in March 2020.

Economic Development

Business – Tasks

- Develop Policies for Incentives
- Develop Marketing Strategy for the Villages at Cascade Head (items to include – comprehensive plan, design, renaming, incentives, etc.)
- Urban Renewal District – develop policies associated with Northern U.R. District including schedule for releasing the tax increment funding.

Workforce Housing – Tasks

- Finish current projects
- Update the housing needs analysis – present to City Council in March 2020.
- Review and Refine Councilor Casper's recommendations – present to City Council in March 2020.

- Review and Refine Councilor Hinton’s recommendations – present to City Council in March 2020.

Emergency Preparedness

- Continue the Cache Program
- Community Education Program

Infrastructure – Long Range Planning

- Complete Current Tasks
- Wastewater – NPDES Permit
- Maintain the current levels of infrastructure & funding
- Develop Water conservation measures (i.e. rain water collection)
- Foothills Boulevard development.
- Restoration through vegetation projects

Parks and Recreation

- Develop Taft Park
- Develop Keel Park (Low impact development including the dog park)
- Stabilize Park & Recreation Funding

Sustainability

- Complete current projects (reduce-reuse-recycle; Styrofoam ban; curbside compost pickup)
- Assign the Sustainability Committee to consider and recommend a climate action plan including a climate action plan resolution and actions the City can implement.
- Explore/Develop Alternative Energy Sources.

Council Communication

COVID-19 Potential Aid

Meeting Date:	April 13, 2020	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	20 Minutes

Financial Aid Requests

The City has received one or more request for financial assistance in the following areas.

Grants or loans to businesses through an emergency business assistance program.

Attached is an email from the Lincoln City Chamber of Commerce requesting an “emergency business assistance program similar to the one recently implemented by the city of Beaverton.”

Beaverton provides up to \$2,500 and uses a means test of 50 employees or less. The business must be directly affected by the mandatory service changes and national chains are excluded. Lincoln City has issued 2,618 occupational tax permits. 2,604 have 50 employees or less. It is unknown how many are directly affected by the COVID-19 emergency. Using the Beaverton model, the potential financial impact = \$6,510,000.

Implement a “non-shutoff” policy for Lincoln City utility bills during emergency.

This is in place

Waive late fees for delinquent Lincoln City utility bills during the emergency.

This is in place.

Defer or waive City utility bills.

During the summer the average, monthly water & sewer revenue is approximately \$725,000. The average monthly water & sewer revenue for the year is approximately \$656,000. The fund balance in the water and sewer funds is insufficient to carry this cost and still meet cash flow. Using general fund balance would be necessary to cover this cost.

Estimated monthly deferred or waived revenue = \$725,000

Defer or waive payments for City property that is leased.

The City leases seven properties – the Lincoln City Cultural Center, Career Tech, BFEY, Mckay's Markets, Salmon Drift Creek Watershed Council, North Pacific (Mo's land lease) and the Lincoln City Glass Center. The estimated monthly revenue from all leases is approximately \$21,515.

Estimated monthly deferred or waived revenue = \$21,515.

Defer or waive Urban Renewal improvement loans.

Urban Renewal has twelve outstanding Urban Renewal loans with a total outstanding, balance of \$422,994. The total monthly payment for all loans is approximately = \$7,400.

Estimated monthly deferred or waived revenue = \$7,400.

Defer or waive the TRT quarterly tax payment.

The next quarterly tax payment is due on April 15th. The City was asked to defer, delay or waive the TRT payment. This would improve cash flow due to the loss of revenue from spring break. The estimated monthly TRT revenue is approximately \$635,000.

Estimated monthly deferred or waived revenue = \$635,000.

Reallocation of grant funds to support non-profit organizations. Cultural Center – use of grant funds.

Included is a letter of request from the Lincoln City Cultural Center. The City budgeted \$200,000

Estimated monthly deferred or waived revenue = \$200,000.

Recovery loans – childcare.

- Federal Assistance for childcare. The federal legislation provides \$3.5 billion in emergency funding to child care providers. These funds can be used for payroll, healthcare, emergency, and sanitation.

It's unknown the extent of financial commitment requested of the City.

Supplement Unemployment benefits.

- Unemployment Federal Assistance. The federal government has allowed states to change their unemployment benefits laws. It lets them provide benefits for situations related to the coronavirus (COVID-19).

And, the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) has expanded benefits further. It authorizes:

- Self-employed workers and gig workers to receive unemployment benefits
- All unemployed workers to receive an extra \$600 a week for up to six months
- Unemployed workers to get an extra 13 weeks of benefits beyond the number a state currently provides
- Refundable Tax Credit. The federal government is providing the following financial assistance.
 - Couples earning up to \$150,000 will receive \$2,400, plus an additional \$500 for each child.
 - Individuals earning up to \$75,000 will receive \$1,200, plus an additional \$500 for each child.
 - These payments will phase out for those earning over \$75,000, \$112,500 for head of household filers, and \$150,000 for married couples filing joint tax returns.
- Withdrawal from Retirement Accounts. The federal legislation suspends penalties for withdrawing up to \$100,000 from retirement accounts.
- High-Deductible Health Plan. The federal legislation allows a high-deductible health plan with a health savings account to cover telehealth services prior to a patient reaching the deductible.

It's unknown the extent of financial commitment requested of the City.

Evictions

The City was requested to adopt legislation that will suspend owner's ability to evict tenants.

- Governor Brown issued Executive Order 20-13 which states:
 1. Residential Tenancies.

- a. During this moratorium, landlords of residential properties in Oregon shall not, for reason of nonpayment as defined in paragraph 1(b) of this Executive Order, terminate any tenant's rental agreement; take any action, judicial or otherwise, relating to residential evictions pursuant to or arising under ORS 105.105 through 105.168, including, without limitation, filing, serving, delivering or acting on any notice, order or writ of termination or the equivalent; or otherwise interfere in any way with such tenant's right to possession of the tenant's dwelling unit.
 - b. The term "nonpayment" as used in paragraph 1 of this Executive Order means any nonpayment of rent, late charges, utility charges, or any other service charge or fee, as described in ORS 90.392(2)(a) or (c), 90.394, or 90.630(1)(d) or (10), or any termination without cause under ORS 90.427. All other terms used in paragraph 1 of this Executive Order shall have the same meanings as set forth in ORS chapters 90 or 105.
 - c. Nothing in paragraph 1 of this Executive Order relieves a residential tenant's obligation to pay rent, utility charges, or any other service charges or fees, except for late charges or other penalties arising from nonpayment which are specifically waived by and during this moratorium. Additionally, paragraph 1 of this Executive Order does not apply to the termination of residential rental agreements for causes other than nonpayment.
 - d. This Executive Order reaffirms and is consistent with Executive Order 20-11, which prohibits law enforcement officers in Oregon from serving, delivering or acting on any notice, order or writ of termination of tenancy or the equivalent or any judicial action, pursuant to or arising under ORS 1Q5.105 through 105.168, that relates to residential evictions for nonpayment.
2. Non-Residential Tenancies.
- a. During this moratorium, landlords of non-residential properties in Oregon shall not, for reason of nonpayment as defined in paragraph 2(b) of this Executive Order, terminate any tenant's lease; take any action, judicial or otherwise, relating to non-residential evictions pursuant to or arising under ORS 105.105 through 105.168, including, without limitation, filing, serving, delivering or acting on any notice, order or writ of termination or the equivalent; or otherwise interfere with such tenant's right to possession of the leased premises.
 - b. The term "nonpayment" as used in paragraph 2 of this Executive Order means nonpayment of rent, late charges, utility charges, or any other service charge or fee, as described in the lease or in ORS 91.090, 91.210 or 91.220. All other terms

used in paragraph 2 of this Executive Order shall have the same meanings as set forth in ORS chapters 91 or 105.

- c. Paragraph 2 of this Executive Order shall apply if a tenant provides the landlord, within 30 calendar days of unpaid rent being due, with documentation or other evidence that nonpayment is caused by, in whole or in part, directly or indirectly, the COVID-19 pandemic. Acceptable documentation or other evidence includes, without limitation, proof of loss of income due to any governmental restrictions imposed to mitigate the spread of COVID-19.
 - d. Nothing in paragraph 2 of this Executive Order relieves a nonresidential tenant's obligation to pay rent, utility charges, or any other service charges or fees, except for late charges or other penalties arising from nonpayment which are specifically waived by and during this moratorium. Additionally, paragraph 2 of this Executive Order does not apply to the termination of leases for causes other than nonpayment.
3. During this moratorium, any residential or non-residential tenant who is or will be unable to pay the full rent when due under a rental agreement or lease, shall notify the landlord as soon as reasonably possible; and shall make partial rent payments to the extent the tenant is financially able to do so.
 4. Any person found to be in violation of this Executive Order is subject to the penalties described in ORS 401.990.
- The Federal COVID-19 legislation enables payment forbearance for federally backed mortgages, requires a foreclosure and eviction moratorium for homeowners with such mortgages, and imposes an eviction moratorium for renters in federally supported housing.

City's Financial Condition

TRT Revenue

The City is losing an estimated \$635,000 in TRT revenue for each month the hotels, motels & VRDs are closed. The staff delayed or cut approximately \$1,800,000 in the FY2020 budget to offset the loss of revenue if the lodging industry remain closed for this quarter.

Community Center

The Community Center is losing approximately \$35,000 for each month it is closed.

Water & Sewer Rates

The daily water and sewer processing is down by approximately 40%. We won't know the full financial impact of this reduction until after the next billing cycle.

Budgeted General Fund Fund Balance

The fund balance for the general fund is \$2,000,000 contingency and \$6,059,630 unappropriated. The City used \$300,460 of the GF contingency for the PERS pay down program. The \$350,000 rehabilitation loan for 3454 NE Hwy 101 will come from the GF contingency. The City requires approximately \$3,000,000 in reserve for cash flow due to the timing of property tax revenue.

Attachments:

Financial Aid Request (PDF)

Ronald Chandler

From: Lori Arce-Torres <lcchamberdirector@gmail.com>
Sent: Friday, March 20, 2020 12:31 PM
To: Riley Hoagland; Diana Hinton; Mitch Parsons; Diane Kusz; Rick Mark; Dick Anderson - Mayor; Judy Casper; Ronald Chandler; Ed Dreistadt; Kenneth Murphy; Granny's Attic - Dale & Lori Arnold
Subject: COVID-19 Emergency Fund for Businesses
Attachments: COVID-19 Letter.pdf

Dear Mayor Anderson and Members of the City Council,

Thank you for your time and consideration,

The Lincoln City Chamber has been writing letters and sending personal stories of how COVID-19 has affected local businesses here in Lincoln City. The letters and personal stories have been sent to the Coronavirus Economic Advisory Committee organized by Gov. Brown. The information has been requested to help determine the need, and I don't want our businesses to be forgotten in the process. I feel like it is making a difference as they have responded to my emails and are keeping me up-to-date as the committees meets and needs additional information. I've also attached the letter sent from the Chamber as a collective voice.

The Chamber has been actively working to organize a much needed Take/Out Delivery list which also includes Retail Businesses that are remaining open for business. Our social media platforms have been very active in sharing this information reaching a vast number of users. We've also added a COVID-19 link to our website that is updated daily.

The Chamber office will remain open as long as possible to offer the much needed "Visitor Center" information as well as fielding the many phone calls from our locals and tourists with a variety of questions and needs. Rest assured that we are diligently cleaning the office to try and keep everyone safe.

I know you are all working hard to find solutions locally for our businesses but I wanted to speak to you directly on behalf of our business community whether they are Chamber Members or not.

Buying Gift Cards with TRT money to support local businesses is a short term fix, however if we don't offer immediate assistance, those businesses will NOT be open to honor the gift cards in the future.

As I know you are aware, the situation that we find ourselves in is a dire one. I'm hearing from businesses that they either cannot pay their bills, or in one case, had already paid his bills and now his account is in a deficit. They need help and they need it now!

We are in unprecedented times and need to take action to ensure our local businesses and economy can recover from this crisis. I'm asking you to consider an **Emergency Business Assistance Program** similar to the one recently implemented by the city of Beaverton referenced below:

Thank you for your consideration,

Lori Arce-Torres

Lincoln City Chamber, Executive Director

Beaverton Emergency Business Assistance Program:

The city of Beaverton is accepting applications to its newly created Emergency Business Assistance Program.

Businesses within the city can apply for grants of up to \$2,500 per establishment to help with commercial rent or mortgage payments. The funds are available to businesses directly affected by the mandatory service changes from the state prohibiting bars and restaurants from serving food and drinks on-premise.

Applications are [available online here](#). The program is aimed at bars and restaurants, but that could be expanded, and businesses must have 50 or fewer full-time employees. National chains are excluded.

According to the city survey, the biggest concern cited by business owners is help with commercial leases and mortgages.

It's a concern echoed by small business owners across the state. A survey by the nonprofit Built Oregon of consumer product and retail businesses estimates that [more than \\$4 million in sales has been lost](#) already for small businesses statewide as consumers stay home and practice social distancing.

--

Lori Arce-Torres

Executive Director

Lincoln City Chamber

4039 NW Logan Road

Lincoln City, Or. 97367

541-994-3070

lcchamberdirector@gmail.com



MEMORANDUM

To: Lincoln City City Council
Ron Chandler, City Manager

From: The Lincoln City Cultural Center Board of Directors

Date: March 30, 2020

Re: Cultural Center Operations and Needs During the COVID19 Outbreak

The Lincoln City Cultural Center Board of Directors has voted to temporarily close the Cultural Center to all public activities through April 28, per guidance from the Governor's office. We especially thank the City for its leadership and proactive measures, as we all work to combat the COVID19 outbreak together.

Since the beginning of the public quarantine measures in mid-March, our program and rental income has disappeared, and our ability to generate charitable contributions seems quite uncertain. However, thanks to the support from the City, through the forgiveness of lease payments and investment in the Delake School's infrastructure, the LCCC has been able to maintain an operations reserve of \$40,000. This represents about two months of full staffing and mission delivery, but with the staff reduction measures outlined below, it may last a bit longer.

Here are the measures that we've taken:

- 1) As of April 1, we will lay off two full-time staff members (Events Manager, Visitors Center Manager) and three part-time staff members (Ceramics Instructor, Kitchen Manager, Janitor).
- 2) As of April 1, and until further notice, the LCCC will operate and fulfill its mission with a staff of three: the Executive Director, Business Manager and Art Gallery Manager, all with reduced hours.
- 3) The Center may open after April 28, for limited use depending on the restrictions set forth by city and state government. We will take advantage of this closure time to assist the City in its ongoing building projects (windows, south landing), but have no other maintenance plans at present.
- 4) The LCCC will apply for all possible emergency support avenues, including the Oregon Cultural Trust, State of Oregon and the Oregon Community Foundation.

The City's continued support is crucial for the survival of our nonprofit, and the many services it provides to our community. **Therefore, we respectfully ask that the City consider the following measures to help the center through this crisis:**

- A) **Fulfill the existing Visitors Center contract, which is good through the end of June, at its present level without hiatus.** In addition, it would be helpful to receive direction from Explore Lincoln City on the future of this contract opportunity (whether it will be going to bid and if so, when).
- B) **Allow current ELC nonprofit grants to be administered and paid out in new ways.** For example, events and activities that were previously funded may not be possible due to COVID19 restrictions. An easing of the grant restrictions and reporting timelines may allow for earlier release of those funds.

C) **Allow the 2020 ELC nonprofit grants to be awarded in a different way, so that those TRT monies can be used to keep nonprofits like ours afloat.** We request that the grant fund be increased, and the current grant guidelines be expanded to allow nonprofits to use grants for personnel and operations costs (currently not allowed). We also request that private businesses be prevented from using this fund, as the inclusion of these businesses may prevent smaller nonprofits from being competitive. This action is in line with the changes in grant requirements at the Oregon Arts Commission and the Oregon Cultural Trust, and will help the entire arts and events infrastructure of our tourist-based economy.

The LCCC Board of Directors welcomes any input that the City of Lincoln City might have on the operations of our community arts hub. Its closure is affecting hundreds of people who have come to rely upon its enriching programs as well as the employment, business opportunities and volunteer service outlets it provides. We are the city's partner in making our city an attractive place to live and visit, and we need your support.

Sincerely,

Dorcas Holzapfel, Chair
The LCCC Board of Directors

Cc: Ed Dreistadt, Director, Explore Lincoln City
Alison Nelson-Robertson, Director, Economic Development
Niki Price, LCCC Executive Director

Council Communication

New Name for the Villages at Cascade Head

Meeting Date:	April 13, 2020	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

At your last meeting there was a consensus on waiting to process the legal work to officially change this development's name but that doesn't prevent the City Council from selecting a new name, if desired.

Staff won't proceed with legally changing the name at this time but the name change has been a Council priority. Staff recommends the Council select a new name if desired. This topic was discussed at the last homeowner's association meeting and members and interested parties were asked to submit possible names. We received the following suggestions.

Villages at Cascade Head Suggestions

- The Villages
- Elk Ridge
- Sitka Villages
- The Villages at Elk Ridge
- Sitka Woods by the Sea
- Wecoma Woods
- The Villages at the Sea
- Pacific Villages
- Forest and Sea Villages
- Sitka Woods Villages
- Villages at Sitka Woods
- Sitka Villages at the Sea

The Knoll Suggestions

It also came up during the Homeowners Meeting that we should consider changing the name of the Knoll. We received the following suggestions.

- Elk Knoll
- Seaview Knoll
- Oceanview Knoll

We contacted the Tribe's Historian and asked if he had any insight into where the name the "Knoll" started and he informed us that he is not certain but people just refer to it as the "Knoll" because that is what a knoll is in terms of a landform.