

"Making a difference through excellence of service"



CITY OF WARRENTON
AGENDA

CITY COMMISSION OF THE CITY OF WARRENTON
REGULAR MEETING
August 9, 2016 – 6:00 P.M.
Warrenton City Commission Chambers – 225 South Main Avenue
Warrenton, Or 97146

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **COMMISSIONER COMMENTS/COMMUNICATIONS/AGENDA ADDITIONS**
5. **CONSENT CALENDAR**

A. Commission Regular Meeting Minutes – 7.26.16

Items on the Consent Calendar have previously been discussed and/or are considered routine. Approval of the Consent Calendar requires a motion, a second, and no discussion, unless requested by a member of the City Commission.

6. **BUSINESS ITEMS**
 - A. Public Hearing – Site Design Review Case No. SDR – 12-1-Walmart Request for Approval Period Extension
 - B. Consideration of Resolution No. 2468; Approving and Adopting Increases to the 2016-2017 Budget by Increasing Appropriations for Unanticipated Revenues in the Sewer Fund
 - C. Consideration of Amendment to Contract with GSI Water Solutions Inc., for City Water Rights Permit Extension

- D. Consideration of Utility Right of Way Agreement -Assignment from Coast Com to Astound Broadband
- E. Consideration of 2nd Reading and Adoption of Ordinance No. 1207A; Vacating a Portion of NW Gardenia Avenue
- F. 2017 Legislative Priorities

7. **PUBLIC COMMENT**

At this time, anyone wishing to address the City Commission concerning items of interest not already on the Agenda may do so. The person addressing the Commission will, when recognized, give his or her name and address for the record. All remarks will be addressed to the whole City Commission and limited to 3 minutes per person. The Commission reserves the right to delay any action, if required, until such time as they are fully informed on a matter.

8. **EXECUTIVE SESSION**

Under the authority of ORS 192.660(2)(h); to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

9. **ADJOURNMENT**

CITY HALL IS ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630, BY CONTACTING LINDA ENGBRETSON AT LEAST 48 HOURS IN ADVANCE OF THE MEETING

5-A

MINUTES
Warrenton City Commission
Regular Meeting – July 26, 2016
6:00 p.m.
Warrenton City Hall - Commission Chambers
225 S. Main
Warrenton, Or 97146

Mayor Kujala called the meeting to order at 6:08 p.m.

Commissioners Present: Tom Dyer, Mayor Mark Kujala, Henry Balensifer

Excused: Rick Newton, Pam Ackley

Staff Present: City Manager Pro tem Linda Engbretson, City Attorney Harold Snow, Police Chief Mathew Workman, Public Works Director Jim Dunn, Fire Chief Tim Demers, Finance Director April Clark, Community Development Director Skip Urling, Wastewater Superintendent Kyle Sharpsteen, Public Works Foreman Craig Walter, City Engineer Collin Stelzig and Administrative Assistant Dawne Shaw

COMMISSIONER COMMENTS

Commissioner Dyer welcomed everyone and stated that as a police officer he is thankful for a good community, good support and feedback.

City Manager Pro tem Engbretson noted the new Fire Dept. report with a corrected percentage. Would like to add the regular and work session meeting minutes from June 14th to the consent calendar to make a correction to the Commissioner attendance, noting that Commissioner Balensifer was excused. She also asked if the commission would be interested in scheduling a work session at the next meeting to discuss the next steps for City Manager recruitment. Brief discussion continued and consensus was to have a work session at the next meeting.

Admin Asst. Dawne Shaw noted that there is a correction to Consent Calendar item A, Regular Meeting Minutes of 7.12.16.

Mayor Kujala stated that he attended the CEDR meeting today with Community Development Director Urling and City Manager Pro tem Engbretson, attended by county wide representatives. The discussion was on affordable housing. He also attended the Mayor's conference last week which was a good opportunity to network with other Mayors from around the state and noted the breakout sessions on emergency preparedness. They also received a legislative update, and he would like the Commission to look at the legislative priorities for 2017 and asked that it be put on the agenda for the next meeting.

Commissioner Balensifer asked if the Commission would authorize his travel to the Oregon Coast Economic Summit, August 8th – 9th. Mayor Kujala and Commissioner Dyer both agreed that it would be good for him to attend.

CONSENT CALENDAR

- A. Commission Regular Meeting Minutes – 7.12.16
- B. Commission Work Session Minutes – 7.12.16
- C. Police Dept. Monthly Finance Report - June 2016
- D. Fire Dept. Monthly Activity Report – June 2016

Mayor Kujala noted the additional item added to the consent calendar – Meeting Minute corrections for the 6/14/16 Work Session and Regular Meeting and also noted the correction to Consent Calendar item A, Regular Meeting Minutes 7/12/16.

Commissioner Dyer moved to accept the meeting minutes with the corrections as stated and the consent calendar. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

BUSINESS

Mayor Kujala opened the public hearing on the consideration of Street Vacation Petition No. 148, petitioner Leonard A. Mossman, for vacation of a portion of NW Gardenia Avenue. Formalities followed and no ex-parte or conflicts of interest were reported.

City Manager Pro tem Engbretson presented the staff report on the street vacation, noting staff comments. Discussion followed on the adjacent properties and whether the vacation would affect access.

Proponents: Leonard Mossman thanked the Commission for hearing this and explained the street vacation petition. No one spoke in opposition.

There being no further comments, Mayor Kujala closed the hearing.

Staff recommendation is to proceed with the vacation. Commissioner Balensifer asked Fire Chief Demers to explain his concerns more in depth. Chief Demers noted the major concern for the Dept. with any street vacation is that they lose the street grid ability to get around residences, noting that there is a lot of wetland around there. These are standard concerns for any vacation. Discussion continued on the wetlands and alternate access. It was noted there are several other

MINUTES

Warrenton City Commission

Regular Meeting - 7-26-16

Page: 2

access opportunities. The property is currently owned by Eliz. Tagg and used as farm land. Mrs. Tagg signed an Affidavit of Consent.

Commissioner Balensifer moved to conduct the first reading by title only of Ordinance No. 1207-A, Vacating a Portion of NW Gardenia Avenue in Warrenton, Oregon. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala – aye

Mayor conducted the first reading by title only of Ordinance No. 1207-A, “*Vacating a Portion of NW Gardenia Avenue in Warrenton, Oregon.*”

City Manager Pro tem Engbretson stated that she may have misunderstood Commissioner Balensifer’s request to review business licenses for nonprofits. Commissioner Balensifer clarified and noted that he may have a conflict and will abstain from the discussion and action. Discussion continued on this specific request for this exemption. The decision was to grant the refund request from Warrenton High Fisheries and at the next meeting bring back a policy change to exempt all nonprofits from the City’s business license fee going forward.

Commissioner Dyer moved to refund the FY 2015-2016 business license fee paid by Warrenton High Fisheries, Inc., and grant them an exemption from the annual fee in subsequent years as long as Warrenton High Fisheries continues as a qualified nonprofit. Motion was seconded and passed unanimously.

Dyer – aye; Kujala - aye; Balensifer – abstained

Fire Chief Demers presented the 2016-2017 Fire Dispatch Services Agreement with the City of Astoria, noting the significant increase of 26.6%. The increase is based on calls for service.

Commissioner Balensifer moved to approve the Fire Dispatch Services Agreement with the City of Astoria for Fiscal Year 2016-2017 and to have the Mayor and City Manager sign the agreement. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Police Chief Workman presented the 2016-2017 Police Dispatch Services Agreement with the City of Astoria for dispatch services.

Commissioner Balensifer moved to approve the Police Dispatch Services Agreement with the City of Astoria for Fiscal Year 2016-2017 and to have the Mayor and City Manager sign the agreement. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

City Engineer Collin Stelzig presented 3 separate contracts for street projects to award to Bayview Transit, Pacific Excavation and Big River Excavation.

Commissioner Dyer moved to award the contract to Bayview Transit for the amount of \$257,885.00 for the Street Overlay Project 2016. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Commissioner Dyer moved to award the contract to Pacific Excavation for the amount of \$125,840.85 for the Delaura Beach Lane Bike Path. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Commissioner Dyer moved to award the contract to Big River Excavation for the amount of \$119,989.00 for the SW 3rd Street Improvement Project. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Community Development Director Urling recommended the second reading and adoption of Ordinance No. 1204-A, to amend the zoning designation for those properties abutting the north side of Highway 104 Spur between the Skipanon River and South Main Avenue from C-1 General Commercial to RH High Density Residential.

Commissioner Balensifer made the motion to conduct the second reading by title only of Ordinance No. 1204-A, Approving Application RZ-16-1 to rezone the properties abutting the north side of Highway 104 Spur between the Skipanon River and South Main Avenue from C-1 General Commercial to RH High Density Residential, based on the findings and conclusions of the June 3, 2016 Gronmark rezone staff report and Planning Commission recommendation. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Mayor Kujala conducted the second reading by title of Ordinance No. 1204-A; *“An ordinance amending the City of Warrenton Zoning map to reflect the rezoning of all tax lots fronting on the north side of Highway 104 Spur in the C-1 General Commercial zoning district in the SE of the SW ¼ of Section 28, Township 8 North, Range 10 West, WM, to RH*

High Density Residential, as illustrated on Application RZ 16-1 drawings, and adopting the findings and conclusions of the June 3, 2016 staff report.”

Commissioner Balensifer moved to adopt Ordinance No. 1204-A. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Community Development Director Urling recommended the second reading and adoption of Ordinance 1205-A, a code amendment to allow food trucks &/or carts in the I-1 General Commercial Zoning district.

Commissioner Dyer made the motion to conduct the second reading by title only of Ordinance No. 1205-A, Providing for food &/or beverage trucks and carts to be permitted uses in the I-1 General Commercial Zoning district. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Mayor Kujala conducted the second reading by title of Ordinance No. 1205-A; “Amending Warrenton Municipal Code Section 16.60.020 to include Food and/or Beverage Trucks or Carts as permitted uses in the I-1 General Industrial Zoning District.”

Commissioner Balensifer moved to approve Ordinance No. 1205-A. Motion was seconded and passed unanimously.

Dyer – aye; Balensifer – aye; Kujala - aye

Commissioner Balensifer clarified for the record that all ordinances be noted as introduced by “all commissioners.”

PUBLIC COMMENT

There being no further business Mayor Kujala adjourned the meeting at 6:51p.m.

APPROVED:

Mark Kujala, Mayor

ATTEST:

6-A

"Making a difference through excellence of service"



CITY OF WARRENTON

AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Skip Urling, Community Development Director 
DATE: For Agenda of August 9, 2016
SUBJ: **PUBLIC HEARING: Site Design Review Case No. SDR-12-1-**
-Walmart Request for Approval Period Extension

SUMMARY

On behalf of its client, Walmart, PacLand submitted a request for an extension of Site Design Review Approval Case No. SDR-12-1 for which a Notice of Decision and Order was issued on August 19, 2013, and a one-year extension granted by the City Commission August 12, 2014 and again on July 28, 2015. The reason for the latest request is that the April, 2015 Clatsop Residents Against Walmart appeal of the Clean Water Act Section 404 permit issued by the US Army Corps of Engineers to fill a small wetland on the subject property is still pending. Warrenton Municipal Code (WMC) 16.212.060.C authorizes one-year extensions subject to four conditions discussed below.

WMC 16.212.060.C, authorizes the Community Development Director to grant an extension if the applicant meets four criteria which are discussed below. However, case law has determined that such extensions are considered "land use actions" and that applications for such extensions must be acted on by the body that made the original decision. Hence, the City Commission is holding a public hearing to take testimony prior to acting on the extension request.

Public notice of the hearing was sent by first class mail or email to parties of record on the original Walmart application, and adjacent property owners within 200 feet of the subject property July 18, 2016, and published in the in

The Columbia Press July 29, 2016. No comments have been received as of the writing of this memorandum. We will provide you any comments submitted by August 9th at the City Commission meeting.

Findings Regarding WMC 16.212.060.C—Extension (Criteria)

1. *No changes are made on the original approved site design review plan;*

The applicant states that no changes are proposed to the approved plan, a copy of which is included with the request and verified by staff. This criterion is satisfied.

2. *The applicant can show intent of initiating construction on the site within the extension period.*

Mr. Dickerson states that the applicant intends to begin construction upon completion of the federal litigation. The optimal time for beginning construction is late spring so complete the majority of the earth work during the drier summer months. This project is now anticipated to begin construction in spring of 2017 assuming the litigation is resolved, which will be within the extension period. This criterion is satisfied.

3. *There have been no material changes to the applicable Code provisions on which the approval was based. If there have been material changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and*

The City has not made any material changes to the applicable code sections governing the original site design review approval. This criterion is satisfied.

4. *The applicant demonstrates that failure to obtain grading permits and/or building permits and substantially begin construction within the applicable approval period was beyond the applicant's control.*

Commencement of construction is pending resolution of the Section 404 permit appeal litigation in federal court. The appeal and review process is beyond the

control of the applicant. This criterion is met.

In conclusion, the request for extension of the site design approval period for SDR 12-1 meets the four code criteria and, as the original decision making body, the City Commission should grant the extension.

RECOMMENDATION/SUGGESTED MOTION

Based on the findings and conclusion regarding the criteria of WMC 16.212.060.C in the Agenda Summary prepared by the Community Development Director, I move to approve the request to extend the approval period of the Walmart Site Design Review Case No. SDR 12-1 for one year from August 18, 2016 to August 18, 2017.

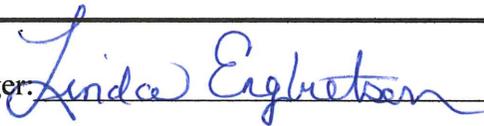
ALTERNATIVE

None recommended

FISCAL IMPACT

Not applicable.

Approved by City Manager:

A handwritten signature in blue ink, reading "Linda Egbertson", is written over a horizontal line.

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

Attachments



July 7, 2016

Skip Urling
Community Development Director
P.O. Box 250
Warrenton, OR 97146-0250

**Subject: SDR12-1 Walmart Site Design Review Approval Extension
Warrenton, OR**

Dear Skip:

This letter is to formally request an extension of the approval period of Site Design Review SDR12-1 for the proposed Walmart at Ensign Lane and Hwy 101 in Warrenton, OR. The SDR application received final approval on August 19, 2013, per the date of mailing for the notice of decision and order of the LUBA remand submittal. The approval period was previously extended by the City from August 19, 2014 to August 18, 2015 because the US Army Corps of Engineers 404 wetland fill permit had not yet been issued, which did not allow Walmart to commence construction. Although the 404 wetland fill permit was issued on September 8, 2014, a lawsuit was filed by Clatsop Residents Against Walmart ("CRAW") in US District Court of Oregon on April 30, 2015 challenging the issuance of the 404 wetland fill permit ("Federal Litigation"). Due to the Federal Litigation, a second extension was requested in July 2015, and approved by the city, with a new expiration date of August 18, 2016. The final decision and the previous extension approvals are attached to this letter for reference.

Since the Federal Litigation of the 404 wetland fill permit is still ongoing, Walmart would like to request another extension of SDR12-1. Per city development code section 16.212.060.B, site design review approvals are effective for a period of one year, unless a grading or building permit has been issued within the approval period. Although the city has approved the issuance of grading and building permits, due to the aforementioned Federal Litigation, Walmart does not plan to commence construction prior to the current expiration of the SDR approval on August 18, 2016.

This request is being made per city of Warrenton development code section 16.212.060.C, which allows for an extension by the Community Development Director, subject to certain criteria. This letter will address the criteria required to grant an extension. We are requesting another one-year extension of the approval for SDR12-1 because of the Federal Litigation.

The approval criteria for extension of this approval are addressed as follows:

16.212.060 C. Extension. The Community Development Director shall, upon written request by the applicant, grant an extension of the approval period, provided that:

1. No changes are made on the original approved site design review plan;

Response: No changes are being proposed to the approved site design review plan. This criterion is met.

2. The applicant can show intent of initiating construction on the site within the extension period;

Response: The applicant intends to begin construction upon completion of the Federal Litigation. The optimal time for beginning construction is late spring to complete the majority of earthwork activities during the drier summer months. This project is now anticipated to begin construction in Spring of 2017 assuming the Federal Litigation is resolved, which will be within the extension period. This criterion is met.

3. There have been no material changes to the applicable Code provisions on which the approval was based. If there have been material changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and

Response: Based on coordination with city staff, and review of the city's development code, there have been no material changes to the applicable Code provisions on which the approval was based. This criterion is met.

4. The applicant demonstrates that failure to obtain grading permits and/or building permits and substantially begin construction within the applicable approval period was beyond the applicant's control.

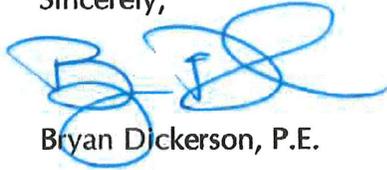
Response: As noted above, the US Army Corps of Engineers 404 wetland fill permit has been appealed by CRAW in the US District Court of Oregon. Project construction is on hold pending resolution of the Federal Litigation. Walmart's decision to not commence construction of the project at this time is due to the Federal Litigation and is beyond Walmart's control. This criterion is met.

We trust these responses to the code criteria will allow the City to grant an extension to the approval of the Walmart Site Design Review SDR12-1, and request the approval for one year from the current expiration date, to August 18, 2017. We look forward to hearing from you regarding this extension request. Please let me know when the City intends to

Page 3
Skip Urling
July 7, 2016

schedule a hearing before the City Council to hear this request and if you have any questions or concerns.

Sincerely,

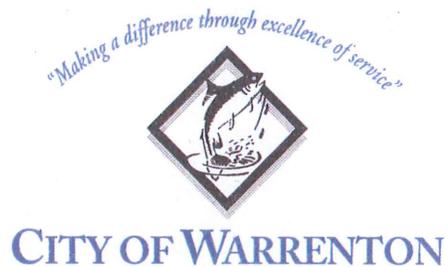
A handwritten signature in blue ink, appearing to read "Bryan Dickerson", with a stylized flourish extending to the right.

Bryan Dickerson, P.E.

Enclosures

CC: Greg Hathaway, Attorney

6-B



AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Public Works Director, James Dunn
DATE: August 9, 2016
SUBJ: Consideration of Resolution No. 2468 Approving and Adopting
Increases to the 2016-2017 Budget by Increasing Appropriations for Unanticipated
Revenues in the Sewer Fund

SUMMARY

The City applied for financial assistance through the Business Oregon Infrastructure Finance Authority and has received a grant of \$20,000 and a loan of \$35,000 for the completion of an Inflow and Infiltration Reduction Study. The City Commission approved entering into a contract with IFA at the June 14, 2016 Commission meeting. Now Public Works is requesting the Commission's approval to amend the budget to account for these funds.

RECOMMENDATION/SUGGESTED MOTION

Staff recommends the following motion;

"I move to Adopt Resolution No. 2468 Approving and Adopting Increases to the 2016-2017 Budget by Increasing Appropriations for Unanticipated Revenues"

ALTERNATIVE

1) None Recommended

FISCAL IMPACT

This increases revenues in the Sewer Fund in the amount of \$55,000 and increases expenses by the same amount. The total project cost is estimated at \$90,000. The \$35,000 matching funds for this project are available in the current sewer fund budget.

Approved by City Manager:



RESOLUTION NO. 2468

Introduced by All Commissioners

**APPROVING AND ADOPTING INCREASES TO THE 2016-2017 BUDGET BY
INCREASING APPROPRIATIONS FOR UNANTICIPATED REVENUES**

BE IT RESOLVED that the City Commission of the City of Warrenton hereby adopts the following 2016-2017 budget changes for unanticipated revenues and expenses.

Whereas, the city has been awarded financing for Technical Assistance for the Warrenton Inflow and Infiltration Reduction Study by the Infrastructure Finance Authority, in the form of a \$20,000 grant and a \$35,000 loan, and

Whereas, these funds will be deposited into the Sewer Fund, and

Whereas, these funds totaling \$55,000.00 will be used to complete an Inflow and Infiltration Reduction Study:

<u>Sewer Fund</u>	<u>Existing</u>	<u>Changes</u>	<u>Adjusted</u>
Total Resources	\$ 5,526,699	55,000	\$5,581,699
Sewer Department	1,698,537	55,000	1,753,537
Debt Service	61,868		61,868
Contingency	434,419		434,419
Transfers to Other Funds	2,549,225		2,549,225
Total Expenditures	\$ 4,744,049	\$ 55,000	\$ 4,799,049

PASSED by the City Commission of the City of Warrenton this ____ day of _____, 2016

APPROVED by the Mayor of the City of Warrenton this ____ day of _____, 2016

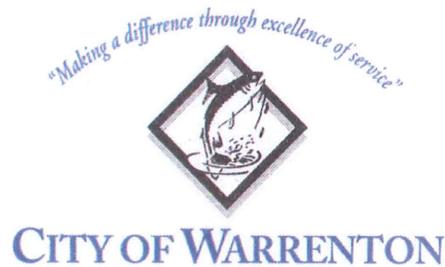
This resolution is effective on August 9, 2016.

Mayor

ATTEST:

City Recorder

6-C



AGENDA MEMORANDUM

TO: The Warrenton City Commission

FROM: Jim Dunn, Public Works Director

DATE: August 8, 2016

SUBJ: GSI Scope Changes

SUMMARY

A contract was entered into by the City of Warrenton and GSI Water Solutions INC, in July of 2015 to help the City with a water right extension. Since that date GSI has facilitated collection of streamflow data, and worked with the Oregon Water Resources Department (OWRD). Due to the results of the streamflow measurements and OWRD's permit extension process, staff is recommending to modify GSI's scope of work. There is no change to the authorized budget.

RECOMMENDATION/SUGGESTED MOTION

Staff recommends the following motions;

"I move to approve contract amendment #1 for GSI Water Solutions, Inc."

ALTERNATIVE

None recommended

FISCAL IMPACT

N/A

Approved by City Manager:

A handwritten signature in blue ink, reading "Linda Engstrom", is written over a solid black horizontal line.



July 18, 2016

Kurt Fritsch, City Manager
City of Warrenton
P.O. Box 250
Warrenton, OR 97146

RE: Contract Amendment #1 – Continued Facilitation of Agency Review of
Extension Application for Permit S-5070

Dear Mr. Fritsch:

As you are aware, GSI Water Solution (GSI) currently has a scope of work with the City of Warrenton (City) to continue to assist with the permit extension process for the City's Permit S-5070. The contract was signed by the City on July 16, 2015 and by GSI on July 14, 2015. As part of this scope of work, GSI has facilitated collection of streamflow data, and worked with the Oregon Water Resources Department (OWRD) regarding the potential installation of a stream gage on the Lewis and Clark River. The scope of work also included work to be conducted by Cramer Fish Sciences to collect and evaluate data regarding fish, fish habitat and fish management, and prepare a simulation model to predict how the potential production of salmon in the Lewis and Clark River would be affected by water withdrawals under different scenarios.

During our conversation with City staff last month, we discussed the results of initial streamflow measurements and delays in OWRD's permit extension process. At the conclusion of our discussion, it was agreed that it was premature for Cramer Fish Sciences to initiate an evaluation of fish and fish habitat (under Tasks 6, 7 and 8), and that GSI would conduct another year of streamflow data collection.

The following amendment modifies the scope of work and schedule for this project to reflect the agreed upon change in strategy for completion of the extension for the City's Permit S-5070. There is no change to the authorized budget of \$50,950; however, the allocation of this budget will be modified.

Scope of Services

Existing Task 5: Facilitate collection of streamflow and water diversion data. Under this task, GSI staff will continue to obtain needed streamflow and water diversion data. This task may include the following:

- Make periodic (up to four) streamflow measurements on the Lewis and Clark River near the City's intake and near Heckard Creek, and evaluate the measurements.
- Work with City staff to obtain information about the amount of water diverted from the City's source streams.

Existing Task 9 – Communications with ODFW and OWRD. Under this task, GSI will continue to communicate with state agencies, as needed. This task will include notifying OWRD that the City does not intend to install a stream gage in the Lewis and Clark River at this time, and well as other necessary communication.

New Task 10- Evaluation of Downstream Point of Diversion. Based on the results of the City's search for a downstream location on the Lewis and Clark River to locate an intake facility, GSI may evaluate the opportunity to modify Permit S-5070 to include a downstream point of diversion. If this option is viable, GSI will communicate with the Oregon Department of Fish and Wildlife (ODFW) about the opportunity to move the City's point of diversion downstream and the potential modifications to ODFW's recommended fish persistence conditions that could result from this change.

New Task 11- Communications with City. As part of this task, GSI will develop technical memorandum summarizing the completed work. One memo will describe the work completed during 2015. A subsequent memo will describe the work completed during 2016.

As described above, work under Existing Tasks 6, 7 and 8 will not be pursued at this time.

Schedule

The following is the estimated schedule for this project based on the information available at this time.

Stream flow measurements at the City point of diversion and near Heckard Creek will occur during the summer and early fall of 2016. Analysis of opportunities to have a downstream point of diversion will begin after the City determines whether an appropriate intake location is available. The 2015 summary technical memo will be

provided to the City in August 2016. The 2016 summary technical memo will be provided to the City in January 2017.

Budget

The authorized budget for this project is \$50,950. As of June 30, 2016, GSI has spent \$12,135 of the budget, leaving \$38,815 of the original budget. The remaining budget is estimated to be allocated as shown in Table 1; however, some variation by task may occur. The remaining budget of \$38,815 will not be exceeded without approval by the City.

Table 1. Allocation of Remaining Budget

Task	Budget
Task 5: Facilitate collection of streamflow and water diversion data	\$19,350
Task 9: Communication with ODFW and OWRD	\$4,930
Task 10: Evaluation of a Downstream Point of Diversion	\$4,540
Task 11: Communication with City	\$9,980
Total	\$38,800

We look forward to continuing our work for the City. Please call Adam Sussman or me if you have any questions. Adam can be reached at (541) 257-9001 and my number is (541) 257-9004.

Sincerely,
GSI Water Solutions, Inc.

Kimberly Grigsby
Senior Water Resources Consultant

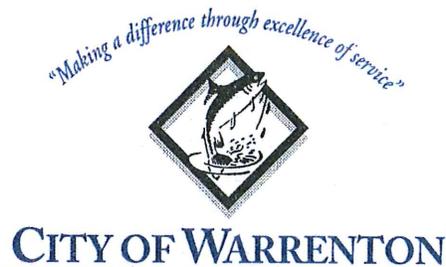
If you concur with this Amendment #1, please sign below.

City of Warrenton


CSI Water Solutions, Inc.

Date

7/18/16
Date



AGENDA MEMORANDUM

TO: The Mayor and Warrenton City Commission
FROM: Linda Engbretson, CMC, City Manager Pro Tem
DATE: August 9, 2016
SUBJ: Utility Right of Way License Assignment

SUMMARY

The City issued a Utility Right of Way License to CoastCom, Inc., for telecommunication services on July 23, 2013. The Utility Right of Way License requirements (Ord. 1160A, Amended by Ord. 1168A, Section 12.32 of our Municipal Code) effectively replaced Franchise Agreements with utility companies, except with the Cable Company where a Franchise Agreement is still required by federal law. Under the City's code, these licenses may be transferred under 12.32.060 K (enclosed). Attached is the letter from CoastCom President Greg Palser requesting the transfer. I have attached the state's grant to Astound for a Certificate of Authority to provide telecommunications service in Oregon.

RECOMMENDATION/SUGGESTED MOTION

" I move to approve the assignment of the City Utility Right of Way License from Coast Com to Astound Broadband LLC."

ALTERNATIVE

Other action as deemed appropriate by the City Commission

FISCAL IMPACT

Continuation of 7% of gross revenues received quarterly (resolution attached).

Approved by City Manager:

A handwritten signature in blue ink, reading "Linda Engstrom", is written over a horizontal line. The signature is cursive and extends slightly above and below the line.

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.



July 11, 2016

Kurt Fritsch, City Manager
City of Warrenton
225 S. Main Avenue
Warrenton, Oregon 97146

Re: CoastCom, Inc. / Astound Broadband, LLC d/b/a Wave
City of Warrenton Utility Right of Way License, Granted
July 23, 2013

Dear Mr. Snyder:

We hope you'll share in our enthusiasm about this positive step for economic development and advanced telecommunications resources for the Warrenton area. With our new pending business combination, we're asking for your help on a telecommunications franchise matter.

On June 3, 2016, CoastCom, Inc. and Astound Broadband, LLC ("Astound"), a wholly-owned direct subsidiary of WaveDivision Holdings, LLC ("Wave"), entered into a definitive purchase agreement to acquire the assets and operations of CoastCom. You may know Astound through our "Wave" brands, including "Wave Broadband," "Wave Business" and Wave G", and our expanding telecom operations throughout the Northwest. Astound is Wave's largest subsidiary, holds all of our telecom assets and is a registered CLEC in Oregon, Washington and California.

CoastCom has been a pioneer and respected leader for bringing telecom solutions and new fiber networks to communities along the Oregon Coast and for providing connectivity to major telecom hubs in Portland, the West Coast and across the Pacific. As a part of Wave, CoastCom's success will be bolstered by our significant financial and technical resources, 1,300+ dedicated employees, robust network facilities, and improved access to the best carriers and technologies in today's telecom arena.

Our entire management team is delighted that Greg Palser and Doug Updenkelder will continue to run the day-to-day operations of the terrific business they have built over the last 17 years and that all of CoastCom's employees will continue to perform in their present positions.

The following briefly describes Wave:

- Wave and its subsidiaries, including Astound, are headquartered in Kirkland, Washington. Wave's management team is responsible for the operations of Astound and its 15 other operating subsidiaries.

- As Wave's telecom arm, Astound holds the enclosed Certificate of Authority to Provide Telecommunications Service from the Public Utilities Commission of Oregon and operates as Competitive Local Exchange Carrier. Astound holds both domestic and international Section 214 licenses issued by the Federal Communications Commission, each of which is enclosed. Wave will focus on the provision of services to business customers including telecommunications, high-speed Internet access, data transport and dark fiber leasing. Although we have a great deal of experience in residential telecommunications, broadband and cable television service as well, we have no present plans to provide cable television service in Warrenton. If those plans change we will request a cable television franchise.
- Wave was founded in 2003 and has grown organically and through a series of 18 acquisitions. We're proud to be among the top 10 broadband companies in the US. For communities of all sizes stretching from Palo Alto to the Canadian border, Wave has emerged as a leader in developing fiber optic networks above and beyond those of traditional telecoms. We offer new, competitive network solutions; Gigabit (and faster) Internet access; alternate, diverse and reliable routes; advanced telephony; and a range of technical solutions typically only available in the "big city." With our help, communities like Dallas, OR have equal or better access to the digital economy as Dallas, TX. We're bringing innovation to over 500,000 customers in Oregon, Washington, and California.
- Wave has invested significantly in excess of \$100 million in recent years to rebuild and upgrade its distribution network and related transmission equipment. We're rapidly expanding our fiber network. In 2015 we built over 1,500 miles of new fiber routes, and we're on track to exceed that again this year.
- Wave has established an enviable track record in providing high-quality customer service and technical service and in developing technology to enable its 24x7 Network Operations Center to proactively monitor its distribution network and customer premises equipment to prevent or quickly remedy any technical issues. Our customer support staff and resources will augment the excellent work and service already in place at CoastCom and provide additional levels of technical support and backup. The significant achievements of the highly regarded staff of Wave in areas of technical quality and innovation have been widely recognized. In fact, Wave received the prestigious "Independent Operator of the Year" award from CableFax Magazine in 2012, was named the "Fastest ISP in the Northwest" by PC Magazine in 2014, and was the fourth most highly ranked ISP in the US by a leading consumer reports magazine in 2015.

The combination of our two companies will bring unique and beneficial technology assets to continue to serve the businesses and organizations of Warrenton, while we preserve the commitment to excellence and strong local presence of CoastCom for your community. We need your help in transferring the current CoastCom franchise.

Astound satisfies the requisite legal, technical and financial qualifications outlined under applicable federal, state and local law to hold the telecommunications franchise to provide

services in the City of Warrenton. Accordingly, we request your consent to the transfer of that franchise from CoastCom to Astound.

We have provided a draft form of consent resolution to be adopted by the City Council. Because we want to close the purchase transaction by August 1, 2016, we look forward to working with you to answer any questions or provide additional information and to obtain swift approval of our request for the City's consent.

Very Truly Yours,

CoastCom, Inc.

By: 
Greg Palser, President

permitted work. The permittee shall be responsible for all injury to persons or damage to public or private property resulting from its failure to properly protect people and property and to carry out the work.

P. Restoration.

1. The permittee shall, at its own expense, promptly restore such ways or property to the same or better condition as existed before the work was undertaken, in accordance with applicable federal, state and local laws, codes, ordinances, rules and regulations, unless otherwise directed by the City and as determined by the Public Works Director.
2. If weather or other conditions beyond the permittee's control do not permit the complete restoration required by the City, the permittee shall temporarily restore the affected rights of way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule may be subject to approval by the City.
3. If the permittee fails to restore rights of way or property as required in this chapter, the City shall give the permittee written notice and provide the permittee a reasonable period of time not less than ten (10) days, unless an emergency or threat to public safety is deemed to exist, and not exceeding thirty (30) days to restore the rights of way or property. If, after said notice, the permittee fails to restore the rights of way or property as required in this chapter, the City shall cause such restoration to be made at the expense of the permittee.

12.32.060 Licenses.

A. License Required.

1. Except those utility operators with a valid franchise agreement from the City, every person shall obtain a license from the City prior to conducting any work in the rights of way.
2. Every person that owns or controls utility facilities in the rights of way as of the effective date of this chapter shall apply for a license from the City within forty-five (45) days of the later of: (1) the effective date of this chapter, or (2) the expiration of a valid franchise from the City, unless a new franchise is granted by the City pursuant to subsection E of this section.

B. License Application. The license application shall be on a form provided by the City, and shall be accompanied by any additional documents required by the application to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, and the facilities over which the utility service will be provided, and other information reasonably necessary to determine the applicant's ability to comply with the terms of this chapter.

* C. License Application Fee. The application shall be accompanied by a nonrefundable application fee or deposit set by resolution of the Commission in an amount sufficient to fully recover all of the City's costs related to processing the application for the license.

D. Determination by City. The City shall issue, within a reasonable period of time, a written determination granting or denying the license in whole or in part. If the license is denied, the written determination shall include the reasons for denial. The license shall be evaluated based upon the provisions of this chapter, the continuing capacity of the rights of way to accommodate

the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.

E. Franchise Agreements. If the public interest warrants, the City and utility operator may enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this chapter, consistent with applicable state and federal law. The franchise may conflict with the terms of this chapter with the review and approval of Commission. The franchisee shall be subject to the provisions of this chapter to the extent such provisions are not in conflict with any such franchise.

F. Rights Granted.

1. The license granted hereunder shall authorize and permit the licensee, subject to the provisions of the City code and other applicable provisions of state or federal law, to construct, place, maintain and operate utility facilities in the rights of way for the term of the license.
2. Any license granted pursuant to this chapter shall not convey equitable or legal title in the rights of way, and may not be assigned or transferred except as permitted in subsection K of this section.
3. Neither the issuance of the license nor any provisions contained therein shall constitute a waiver or bar to the exercise of any governmental right or power, police power or regulatory power of the City as may exist at the time the license is issued or thereafter obtained.

G. Term. Subject to the termination provisions in subsection M of this section, the license granted pursuant to this chapter will remain in effect for a term of five (5) years.

H. License Nonexclusive. No license granted pursuant to this section shall confer any exclusive right, privilege, license or franchise to occupy or use the rights of way for delivery of utility services or any other purpose. The City expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the City's right to use the rights of way, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the rights of way. Nothing in the license shall be deemed to grant, convey, create, or vest in licensee a real property interest in land, including any fee, leasehold interest or easement.

I. Reservation of City Rights. Nothing in the license shall be construed to prevent the City from grading, paving, repairing and/or altering any rights of way, constructing, laying down, repairing, relocating or removing City facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any City facilities. If any of licensee's utility facilities interfere with the construction, repair, replacement, alteration or removal of any rights of way, public work, City utility, City improvement or City facility, except those providing utility services in competition with a licensee, licensee's facilities shall be removed or relocated as provided in subsections C, D and E of section 12.32.080 this chapter, in a manner acceptable to the City and consistent with industry standard engineering and safety codes.

J. Multiple Services.

1. A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and privilege tax requirements of this chapter for the portion of the facilities and extent of utility services delivered over those facilities.

2. A utility operator that provides or transmits more than one utility service over its facilities is not required to obtain a separate license or franchise for each utility service, provided that it gives notice to the City of each utility service provided or transmitted and pays the applicable privilege tax for each utility service.

K. **Transfer or Assignment.** To the extent permitted by applicable state and federal laws, the licensee shall obtain the written consent of the City prior to the transfer or assignment of the license. The license shall not be transferred or assigned unless the proposed transferee or assignee is authorized under all applicable laws to own or operate the utility system and the transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment. If a license is transferred or assigned, the transferee or assignee shall become responsible for all facilities of the licensee at the time of transfer or assignment. A transfer or assignment of a license does not extend the term of the license.

L. **Renewal.** At least ninety (90), but no more than one hundred eighty (180), days prior to the expiration of a license granted pursuant to this section, a licensee seeking renewal of its license shall submit a license application to the City, including all information required in subsection B of this section and the application fee required in subsection C of this section. The City shall review the application as required by subsection D of this section and grant or deny the license within ninety (90) days of submission of the application. If the City determines that the licensee is in violation of the terms of this chapter at the time it submits its application, the City may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the City, before the City will consider the application and/or grant the license. If the City requires the licensee to cure or submit a plan to cure a violation, the City will grant or deny the license application within ninety (90) days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

M. **Termination.**

1. **Revocation or Termination of a License.** The Commission may terminate or revoke the license granted pursuant to this chapter for any of the following reasons:
 - a. Violation of any of the provisions of this chapter;
 - b. Violation of any provision of the license;
 - c. Misrepresentation in a license application;
 - d. Failure to pay taxes, compensation, fees or costs due the City after final determination of the taxes, compensation, fees or costs;
 - e. Failure to restore the rights of way after construction as required by this chapter or other applicable state and local laws, ordinances, rules and regulations;
 - f. Failure to comply with technical, safety and engineering standards related to work in the rights of way; or
 - g. Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance and/or operation of the utility facilities.
2. **Standards for Revocation or Termination.** In determining whether termination, revocation or some other sanction is appropriate, the following factors shall be considered:
 - a. The egregiousness of the misconduct;
 - b. The harm that resulted;
 - c. Whether the violation was intentional;



Secretary of State
Corporation Division
255 Capitol Street NE, Suite 151
Salem, OR 97310-1327

Phone: (503) 986-2200
Fax: (503) 378-4381
www.filinginoregon.com

Registry Number: 579029-92
Type: FOREIGN LIMITED LIABILITY COMPANY

Next Renewal Date: 02/11/2010

ASTOUND BROADBAND, LLC
401 KIRKLAND PARKPLACE STE 500
KIRKLAND WA 98033

Acknowledgment Letter

The document you submitted was recorded as shown below. Please review and verify the information listed for accuracy.

If you have any questions regarding this acknowledgement, contact the Secretary of State, Corporation Division at (503)986-2200. Please refer to the registration number listed above. A copy of the filed documentation may be ordered for a fee of \$5.00. Submit your request to the address listed above or call (503)986-2317 with your Visa or MasterCard number.

Document

APPLICATION FOR AUTHORITY

Filed On

02/11/2009

Jurisdiction

WASHINGTON

Name

ASTOUND BROADBAND, LLC

Principal Place of Business

401 KIRKLAND PARKPLACE STE 500
KIRKLAND WA 98033

Registered Agent

CORPORATION SERVICE COMPANY
285 LIBERTY ST NE
SALEM OR 97301

Mailing Address

401 KIRKLAND PARKPLACE STE 500
KIRKLAND WA 98033

THEJOH
ACK
02/11/2009



Phone: (503) 986-2200
Fax: (503) 378-4381

Application for Authority to Transact—Foreign Limited Liability Company

Secretary of State
Corporation Division
255 Capitol St. NE, Suite 151
Salem, OR 97310-1327
FilingInOregon.com

FILED

FEB 11 2009

**OREGON
SECRETARY OF STATE**

REGISTRY NUMBER:

579029-92

For office use only

In accordance with Oregon Revised Statute 192.410-192.490, the information on this application is public record. We must release this information to all parties upon request and it will be posted on our website.

For office use only

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1) NAME ASTOUND BRANDSAND, LLC

NOTE: (Must contain the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C.") Must be identical to the name on the Certificate of Existence. See #3.

2) STATE OR COUNTRY OF ORGANIZATION

WASHINGTON

Date of Organization: 4/19/2005

8) ADDRESS OF PRINCIPAL OFFICE OF THE BUSINESS

401 KIRKLAND PARK PLACE, SUITE 500
KIRKLAND, WA 98033

3) CERTIFICATE OF EXISTENCE

A certificate of existence, current within 60 days of delivery to this Division, authenticated by the official having custody of the organization, is attached.

9) ADDRESS WHERE THE DIVISION MAY MAIL NOTICES

401 KIRKLAND PARK PLACE, SUITE 500
KIRKLAND, WA 98033

4) DURATION (Please check one.)

Latest date upon which the Limited Liability Company is to dissolve is _____

Duration shall be perpetual.

10) IF THIS LIMITED LIABILITY COMPANY IS NOT MEMBER MANAGED, CHECK ONE BOX BELOW.

This limited liability company is managed by a single manager.
 This limited liability company is managed by multiple manager(s).

5) THIS FOREIGN LIMITED LIABILITY COMPANY SATISFIES THE REQUIREMENTS OF ORS 63.714(3).

6) NAME OF OREGON REGISTERED AGENT

CORPORATION SERVICE COMPANY

7) REGISTERED AGENT'S PUBLICLY AVAILABLE ADDRESS (Must be an Oregon Street Address, which is identical to the registered agent's business office.)

285 LIBERTY STREET NE
SALEM, OR 97301

11) EXECUTION (At least one member or manager must sign.)

Signature

Printed Name

Title

[Signature]
for David Bristol Holdings, LLC Member and Manager

JAMES A. PENNEY

EXECUTIVE VICE PRESIDENT

12) CONTACT NAME (To resolve questions with this filing.)

DANIELLE WILSON

DAYTIME PHONE NUMBER (Include area code.)

425-896-1829

FEEES

Required Processing Fee \$50
Confirmation Copy (Optional) \$5

Processing Fees are nonrefundable.
Please make check payable to "Corporation Division."

NOTE:

Fees may be paid with VISA or MasterCard. The card number and expiration date should be submitted on a separate sheet for your protection.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 1440

In the Matter of)	
)	
ASTOUND BROADBAND, LLC)	ORDER
)	
Application for a Certificate of Authority to)	
Provide Telecommunications Service in Oregon)	
and Classification as a Competitive Provider.)	

DISPOSITION: APPLICATION GRANTED

Note: By issuing this certificate, the Commission makes no endorsement or certification regarding the certificate holder's rates or service.

The Application

On February 5, 2009, Astound Broadband, LLC (Applicant) filed an application for certification to provide telecommunications service in Oregon as a competitive provider. Applicant proposes to provide intraexchange (local exchange) switched service (i.e., local dial tone) and non-switched, private line service (dedicated transmission service) within all exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B to this order.

Applicant also proposes to provide interexchange switched service (toll) and non-switched, private line service (dedicated transmission service) statewide in Oregon. Applicant indicates that it intends to construct facilities and operate as a facilities-based provider, and operate as a reseller, for intraexchange and interexchange service. Applicant may purchase network elements and finished services for resale only from other certified carriers.

Applicant will not directly provide operator services as defined in OAR 860-032-0001 and will not be an 'operator service provider' as defined in ORS 759.690(1)(d).

The Commission served notice of the application on February 18, 2009. No protests or requests to be made parties of the proceeding were filed.

Based on the record in this matter, the Commission makes the following:

FINDINGS AND CONCLUSIONS

Applicable Law

Two statutory provisions apply to this application. First, ORS 759.020 governs Applicant's request to provide telecommunications as a competitive provider. Under ORS 759.020(5), the Commission shall classify Applicant as a competitive provider if Applicant demonstrates that its services are subject to competition, or that its customers or those proposed to become customers have reasonably available alternatives. In making this determination, the Commission must consider the extent to which services are available from alternative providers that are functionally equivalent or substitutable at comparable rates, terms and conditions, existing economic or regulatory barriers to entry, and any other factors deemed relevant.

Second, ORS 759.050 governs Applicant's request to provide local exchange telecommunications service. Under ORS 759.050(2)(a), the Commission may authorize Applicant to provide local exchange service within the local exchange of a telecommunications utility if the Commission determines such authorization would be in the public interest. In making this determination, the Commission must consider the extent to which services are available from alternative providers, the effect on rates for local exchange service customers, the effect on competition and availability of innovative telecommunications service in the requested service area, and any other facts the Commission considers relevant. *See* Order No. 96-021.

Designation as a Competitive Provider

Applicant has met the requirements for classification as a competitive telecommunications service provider. Applicant's customers or those proposed to become customers have reasonably available alternatives. The incumbent telecommunications utilities and cooperative corporations listed in the appendices provide the same or similar local exchange services in the local service area requested by Applicant. AT&T, Sprint Communications, Qwest Corporation, Verizon Northwest Inc., and others provide interexchange telecommunications service in the service area requested by Applicant. Subscribers to Applicant's services can buy comparable services at comparable rates from other vendors. Economic and regulatory barriers to entry are relatively low.

Public Interest

With regard to the general factual conclusions relevant to this proceeding, the Commission adopts the Commission's findings in Order No. 93-1850 and Order No. 96-021. Based on a review of those findings, as well as information contained in the application, the Commission concludes that it is in the public interest to grant the application of Astound Broadband, LLC to provide local exchange telecommunications service as a competitive telecommunications provider in exchanges of the

telecommunications utilities and cooperative corporations listed in the appendices, as described in the application. Further, it is in the public interest to grant statewide interexchange authority as described in the application. This finding will have no bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Telecommunications Act of 1996 (47 USC § 251, 252) with regard to the telecommunications utilities and cooperative corporations in this docket.

Conditions of the Certificate

In Order No. 96-021, the Commission interpreted ORS 759.050 and established conditions applicable to competitive local exchange carriers. Also, other conditions are listed in administrative rules, including among others OAR 860-032-0007. Applicant, as a competitive provider, shall comply with the conditions adopted in Order No. 96-021, as well as all applicable laws, Commission rules, and orders related to provision of telecommunications service in Oregon.

Per ORS 759.050(2)(c) and Order No. 96-021, Applicant shall comply with the following conditions.

1. Applicant shall terminate all intrastate traffic originating on the networks of other telecommunications providers that have been issued a certificate of authority by the Commission.
2. Applicant shall make quarterly contributions to the Oregon Universal Service fund based on a Commission approved schedule and surcharge percentage assessed on all retail intrastate telecommunications services sold in Oregon, pursuant to ORS 759.425. If Applicant bills the surcharge to its end-users, Applicant shall show the charges as a separate line item on the bill with the words "Oregon Universal Service Surcharge ____%".
3. Applicant shall offer E-911 service. Applicant has primary responsibility to work with the E-911 agencies to ensure that all users of its services have access to the emergency system. Applicant will deliver or arrange to have delivered to the correct 911 Controlling Office its customers' Automatic Number Identification telephone numbers so the lead 911 telecommunications service provider can deliver the 911 call to the correct Public Safety Answering Point. Applicant shall work with each 911 district and lead 911 telecommunications service provider to develop procedures to match Applicant's customer addresses to the 911 district's Master Street Address Guide in order to obtain the correct Emergency Service Number (ESN) for each address. Applicant shall provide the lead 911 telecommunications service provider with daily updates of new customers, moves, and changes with the correct ESN for each.

4. For purposes of distinguishing between local and toll calling, Applicant shall adhere to local exchange boundaries and Extended Area Service (EAS) routes established by the Commission. Applicant shall not establish an EAS route from a given local exchange beyond the EAS area for that exchange.
5. When Applicant is assigned one or more NXX codes, Applicant shall limit each of its NXX codes to a single local exchange or rate center, whichever is larger, and shall establish a toll rate center in each exchange or rate center proximate to that established by the telecommunications utility or cooperative corporation serving the exchange or rate center.
6. Applicant shall pay an annual fee to the Commission pursuant to ORS 756.310 and 756.320 and OAR 860-032-0095. The minimum annual fee is \$100. Applicant is required to pay the fee for the preceding calendar year by April 1.
7. Pursuant to Oregon Laws 1987, chapter 290, sections 2-8, and to OAR chapter 860, division 033, Applicant shall ensure that the Residential Service Protection Fund surcharge is remitted to the Commission. This surcharge is assessed against each retail subscriber at a rate that is set annually by the Commission.

Competitive Zones

All exchanges of the telecommunications utilities and cooperative corporations listed in the appendices to this order are designated competitive zones pursuant to ORS 759.050(2)(b).

Pricing Flexibility

Dedicated Transmission Service

The telecommunications utilities listed in Appendix A are granted pricing flexibility for dedicated transmission service in their respective exchanges by this order. *See* Order No. 93-1850, docket UM 381.

Local Exchange Switched Service

Cooperative telephone companies are generally not regulated by the Commission for local exchange services, and therefore already have pricing flexibility. Any telecommunications utility exempt under ORS 759.040, listed in Appendix A, has pricing flexibility for local exchange service. By Order No. 96-021, at page 82, pursuant

to ORS 759.050(5), the Commission established procedures whereby telecommunications utilities would be granted pricing flexibility for local exchange switched services. Qwest has complied with those procedural requirements for all of its exchanges. Verizon has complied with those procedural requirements for forty-three of its forty-four exchanges.

ORDER

IT IS ORDERED that:

1. The application of Astound Broadband, LLC is granted with conditions described in this order.
2. Applicant is designated as a competitive telecommunications provider for intraexchange service in the local exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B. In addition, Applicant is designated as a competitive telecommunications provider for interexchange service statewide in Oregon.
3. The local exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B are designated as competitive zones.
4. Any obligation regarding interconnection between Applicant and the telecommunications utilities and cooperative corporations listed in Appendices A and B shall be governed by the provisions of the Telecommunications Act of 1996 (the Act). Commission Order No. 96-021 will govern the interconnection obligations between such parties for the provision of switched local services, unless otherwise addressed by an interconnection agreement or subsequent Commission order.
5. No finding contained in this order shall have any bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Act with regard to the telecommunications utilities and cooperative corporations listed in the appendices to this order.

6. The telecommunications utilities listed in Appendix A shall receive pricing flexibility on an exchange-by-exchange basis as set forth in this order.

Made, entered, and effective MAR 12 2009.



A handwritten signature in black ink, appearing to read "Lee Sparling", is written over a horizontal line.

Lee Sparling
Director
Utility Program

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

APPENDIX A

CP 1440

EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE TELECOMMUNICATIONS
UTILITIES LISTED BELOW

Telecommunications Utilities Not Exempt Pursuant to ORS 759.040

CenturyTel of Eastern Oregon, Inc.
CenturyTel of Oregon, Inc.
Qwest Corporation
United Telephone Company of the Northwest/Embarq
Verizon Northwest Inc.

Telecommunications Utilities Exempt Pursuant to ORS 759.040

Asotin Telephone Company
Cascade Utilities, Inc.
Citizens Telecommunications Company of Oregon
Eagle Telephone System, Inc.
Helix Telephone Company
Home Telephone Company
Malheur Home Telephone Company
Midvale Telephone Exchange
Monroe Telephone Company
Mt. Angel Telephone Company
Nehalem Telecommunications, Inc.
North-State Telephone Company
Oregon Telephone Corporation
Oregon-Idaho Utilities, Inc.
People's Telephone Company
Pine Telephone System, Inc.
Roome Telecommunications, Inc.
Trans-Cascades Telephone Company

APPENDIX B

CP 1440

EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE COOPERATIVE
CORPORATIONS LISTED BELOW

Beaver Creek Cooperative Telephone Company
Canby Telephone Association
Clear Creek Mutual Telephone
Colton Telephone Company
Gervais Telephone Company
Molalla Telephone Company
Monitor Cooperative Telephone Co.
Pioneer Telephone Cooperative
Scio Mutual Telephone Association
St. Paul Cooperative Telephone Association
Stayton Cooperative Telephone Co.

RESOLUTION NO. 2365

Introduced by All Commissioners

TO ESTABLISH PRIVILEGE TAXES FOR UTILITIES OPERATORS WITHIN THE CITY
OF WARRENTON RIGHT-OF-WAY

WHEREAS, Warrenton Municipal Code (WMC) Chapter 12.32 Rights-of-Way establishes a privilege tax and license application fee with the rates of each to be set by Commission resolution; and

WHEREAS, the City of Warrenton desires to set the privilege tax rate and license application fees established in Chapter 12.32.

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

Section 1: The privilege tax established in WMC 12.32.120 is hereby set at the following rates for each type of utility service listed below:

1) Electric

Privilege Tax: 5% of gross revenues defined as any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles.

2) Cable

Privilege Tax: 5% of gross revenue as defined in the franchise granted to Cox Cablevision by Ordinance 791-A.

3) Natural Gas

Privilege Tax: 5% of gross revenues defined as any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles.

4) Telecommunications Utilities (as defined in ORS 759.005)

Privilege Tax: 7% of gross revenue as defined in ORS. 221.515

5) Utility Operators (as defined in SMC 12.16.050) Not Listed Above

Privilege Tax: 5% of gross revenues defined as any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles.

Section 2: The license application fee established in WMC 12.32.060 is \$50.00.

Section 3: This resolution is and shall be effective from and after its passage by the Council.

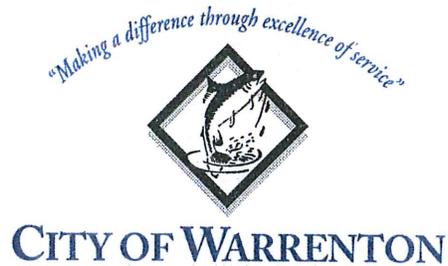
ADOPTED by the City Commission of the City of Warrenton this 22nd day of May 2012.

APPROVED:


Karl R. Hellberg, Mayor

ATTEST:


Linda Engbertson, City Recorder



AGENDA MEMORANDUM

TO: The Warrenton City Commission

FROM: Linda Engbretson, CMC, City Recorder/City Manager Pro tem

DATE: August 9, 2016

SUBJ: Ordinance No. 1207A; Vacating a Portion of NW Gardenia Avenue in
The City of Warrenton, County of Clatsop, State of
Oregon

SUMMARY

After holding a public hearing on the proposed street vacation, the Commission conducted the first reading by title of Ordinance No. 1207A during the July 26, 2016, meeting. The ordinance is presented for consideration of second reading and adoption.

RECOMMENDATION/SUGGESTED MOTION

"I move to conduct the second reading by title only of Ordinance No. 1207A."

Title: *Ordinance No. 1207A; Vacating a Portion of NW Gardenia Avenue in the City of Warrenton, County of Clatsop, State of Oregon.*

"I move to adopt Ordinance No. 1207A."

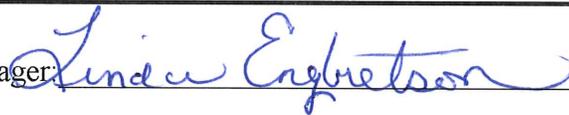
ALTERNATIVE

N/A

FISCAL IMPACT

N/A

Approved by City Manager:

A handwritten signature in blue ink, reading "Linda Engstrom", written over a horizontal line.

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

ORDINANCE NO. 1207

INTRODUCED BY COMMISSIONER: _____

VACATING A PORTION OF NW GARDENIA AVENUE
IN WARRENTON, OREGON

WHEREAS, The Warrenton City Commission deems it to be in the best interest of the City to vacate A portion of NW Gardenia Avenue in the City of Warrenton, County of Clatsop, State of Oregon; and

WHEREAS, the applicant, Leonard A. Mossman, has petitioned the Warrenton City Commission for vacation of this portion of NW Gardenia; and

WHEREAS, the Warrenton City Commission determined there is no reason why said petition should not be granted and, therefore, a public hearing on the petition was held at the hour of 6:00 p.m. on July 26, 2016, in the Commission's Chambers at Warrenton City Hall; and

WHEREAS, due notice of time and place for said hearing was given, as by law required, and the Warrenton City Commission examined and determined that the abutting property owner of that portion to be vacated was the property owner and that the owners of a majority of the area affected made no objections; and that the public interest would not be prejudiced by vacation of that portion of the street right-of-way described above, which the petitioner requested be vacated; and that matters having been determined in favor of the petition by the Warrenton City Commission,

NOW, THEREFORE, the City of Warrenton ordains as follows:

Section 1. That portion of public right-of-way known as NW Gardenia Avenue in the City of Warrenton, Clatsop County, State of Oregon, described as:

The property that falls between Parcel 1 and Parcel 2 of P.P. 1998-034 which is a portion, to become a former portion, of NW Gardenia Avenue, immediately north of NW 9th Street as found on Clatsop County Oregon Map 8 10 16BD

is hereby vacated. Nothing contained herein shall cause or require the removal or obstruction of any drainage ditch, abandonment of any sewer, water main conduit, utility line, pole or any other thing used or intended to be used for any public service.

Section 2. The City Recorder of the City of Warrenton is hereby ordered to make this vacation a matter of public record; and it is expressly provided that the petitioner shall forthwith pay the costs of the necessary changes of public records, as required by law, and it is hereby provided that the City Recorder shall file with the clerk, the assessor, and the surveyor of Clatsop County,

a certified copy of this ordinance.

Section 3. This ordinance will take effect 30 days after its adoption by the Warrenton City Commission.

Adopted by the City Commission of the City of Warrenton, Oregon this _____ day of August, 2016.

First Reading: July 26, 2016

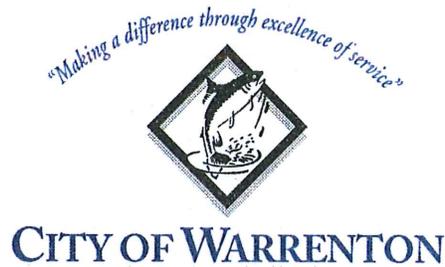
Second Reading: August 9, 2016

APPROVED:

Mark Kujala, Mayor

ATTEST:

Linda Engbretson, CMC
City Recorder



AGENDA MEMORANDUM

TO: The Mayor and Warrenton City Commission
FROM: Linda Engbretson, CMC, City Manager Pro Tem
DATE: August 9, 2016
SUBJ: LOC 2017 LEGISLATIVE AGENDA

SUMMARY

Per your direction, the list of League Policy Committees' 29 legislative proposals is attached for your review and discussion. The letter states the deadline was July 22, but Mayor Kujala stated they will accept late submissions.

RECOMMENDATION/SUGGESTED MOTION

Per Commission discussion.

ALTERNATIVE

N/A

FISCAL IMPACT

N/A

Approved by City Manager: _____

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.



1201 Court Street NE, Suite 200 • Salem, Oregon 97301
(503) 588-6550 • (800) 452-0338 • Fax: (503) 399-4863
www.orcities.org

June 6, 2016

Dear Chief Administrative Official:

For the past three months, eight policy committees have been working to identify and propose specific actions as part of the League's effort to develop a pro-active legislative agenda for the 2017 session. They have identified 29 legislative objectives as set forth in the enclosed ballot and legislative recommendation materials. These objectives span a variety of issues and differ in the potential resources required to seek their achievement. Therefore, it is desirable to prioritize them in order to ensure that efforts are focused where they are most needed.

Each city is being asked to review the recommendations of the policy committees and provide input to the LOC Board of Directors as it prepares to adopt the League's 2017 legislative agenda. After your city council has had the opportunity to review the 29 proposals and discuss them with your staff, please return the enclosed ballot indicating the top four issues that your city council would like to see the League focus on in the 2017 session. **The deadline for response is July 22, 2016.** The board of directors will then review the results of this survey of member cities, along with the recommendations of the policy committees, and determine the League's 2017 legislative agenda.

Your city's participation and input will assist the board in creating a focused set of specific legislative targets that reflect the issues of greatest importance to cities. Thank you for your involvement, and thanks to those among you who gave many hours of time and expertise in developing these proposals.

Do not hesitate to contact me or Craig Honeyman, Legislative Director, with questions.

Sincerely,

Michael J. McCauley
Executive Director

INSTRUCTIONS

1. Each city should submit one form that reflects the consensus opinion of its city council on the **top four** legislative priorities for 2017.
2. Simply place an **X** in the space to the left of the city's top four legislative proposals (last pages of the packet).
3. The top four do not need to be prioritized.
4. Return by **July 22nd** via mail, fax or e-mail to:

Paul Aljets
League of Oregon Cities
1201 Court St. NE, Suite 200
Salem, OR 97301
Fax – (503) 399-4863
paljets@orcities.org

Thank you for your participation.

City of: _____

Please mark 4 boxes with an X that reflect the top 4 issues that your city recommends be the priorities for the League's 2017 legislative agenda.

Legislation

Community Development

- A. Needed Housing Assistance Program
- B. Natural Hazard Land Use Reform
- C. DOGAMI Disaster Mapping
- D. Floodplain Technical Assistance

Energy

- E. Green Energy Technology Requirement
- F. Funding Public Energy Projects
- G. Updates to Oregon Energy Code

Finance and Taxation

- H. Property Tax Reform - Market Value / Local Control
- I. Property Tax Reform - Fairness and Equity
- J. Local Lodging Tax
- K. Nonprofit Property Tax Exemption
- L. Marijuana and Vaping Taxes

General Government

- M. Restore Recreational Immunity
- N. Increase Local Liquor Fees
- O. Marijuana Legalization Implementation
- P. Mental Health Investments
- Q. Qualification Based Selection

Human Resources

- R. Subsidy for Retiree Health Insurance Repeal
- S. PERS Reform
- T. Arbitration Reform
- U. Veterans Preference Clarifications

Telecommunications

- V. Rights of Way
- W. Franchise Fees
- X. 9-1-1 Emergency Communications
- Y. Technology Funding

Transportation

- Z. Transportation Funding and Policy Package

Water/Wastewater

- AA. Funding Water System Resilience
- BB. Enhanced Prescription Drug Take-Back
- CC. Water Supply Development Fund

Community Development

Legislation	Background
<p>A. <u>Needed Housing Assistance Program</u></p> <p>Create state grants and technical assistance to cities working to develop housing development programs directed at new or innovative means of providing housing solutions for low-income or senior populations.</p>	<p>Cities are looking for new ways to serve the needs of a variety of people needing housing options and putting more resources toward housing projects. However, there is a need for state resources and assistance in implementing these programs. Funds that cities could access could be used to assist in land purchases for leasing for long-term low income housing, incentives for creating single story housing for seniors, tiny housing development, and planned developments that serve a range of incomes. Technical assistance to other cities should help a city determine what programs or planning options are available tools to help cities reach the goals set in the comprehensive plan.</p>
<p>B. <u>Natural Hazard Land Use Reform</u></p> <p>Create process for communities to move the UGB from an identified hazard area to resource lands and planning for replacing significant urban areas lost after a natural disaster.</p>	<p>As science has better located some hazards areas and as regulations impact the expected development of other areas, cities need to find ways to respond more efficiently to address long-term planning for development. This requires a simplification of the process for changing the location of development, including adding new areas to the UGB, to account for lost development capacity. There also needs to be a streamlined process for a city to identify areas of new development should a disaster remove a large portion of the buildable land supply if a disaster should strike.</p>
<p>C. <u>DOGAMI Disaster Mapping</u></p> <p>Increase funding for DOGAMI to complete comprehensive disaster mapping of cities, including landslide and floodplain risk identification, and natural hazard related evacuation planning for additional potential risks such as tsunami or wildfire inundation.</p>	<p>The Oregon Department of Geology and Mineral Industries (DOGAMI) provides a number of technical resources to cities to identify hazards that could impact development. The department is also an integral partner in creating plans for the emergency response for many disasters that could occur in the state. Increasing funds for comprehensive maps will help with long-term planning for hazard mitigation, resilience, and survival.</p>
<p>D. <u>Floodplain Technical Assistance</u></p> <p>Provide DLCDC funding for technical assistance to cities implementing required changes to floodplain development management practices from FEMA.</p>	<p>Because of the recent release of the Biological Opinion from the National Oceanic and Atmospheric Administration Fisheries Service related to the National Flood Insurance Program's potential to impact endangered species, there is a need for cities to receive significant assistance in implementing any changes required by the Federal Emergency Management Agency. As the federal process moves forward, the state must provide resources to help cities update comprehensive plans and development codes. This issue will have a number of impacts and assistance in the form of model codes, staff resources, grants, and other expertise will be necessary for cities trying to implement any changes or additional work.</p>

Energy

Legislation	Background
<p><u>E. Changes to 1.5 Percent Green Energy Technology Requirement</u></p> <p>Advance legislation to statutorily modify the existing “1.5 percent green energy technology for public buildings” requirement to allow for alternative investment options such as offsite solar or community solar projects.</p>	<p>Oregon statute currently requires public contracting agencies to invest 1.5% of the total contract price for new construction or major renovation of certain public buildings on solar or geothermal technology. The requirement allows for offsite technology, but only if the energy is directly transmitted back to the public building site and is more cost-effective than onsite installation.</p> <p>Removing the requirement that an offsite project be directly connected to the public building project could result in increased flexibility for local governments to invest in solar projects that are more cost-effective and provide for increased solar energy generation. In addition, the League will work to allow 1.5 percent funds to be invested in alternative projects that provide a greater economic or social return on investment. As an example, a city could use the funds on a community solar project to benefit low-income residents rather than being required to invest in solar generation at the site of the public building project.</p>
<p><u>F. Funding for Public Energy Projects</u></p> <p>Support enhanced incentives for public energy projects including grants for technical assistance, feasibility studies and resource recovery projects for energy and fuel generation.</p>	<p>There are programs that exist in Oregon for the purpose of incentivizing energy projects including renewable energy generation, alternative fuel vehicles, and energy efficiency. Programs such as the Business Energy Tax Credit (BETC), which was discontinued in 2014, and the State Energy Loan Program have been important tools for incentivizing energy projects for local governments. However, as a result of scrutiny over the administration of these incentives including private loan defaults, these programs are either no longer available, such is the case with the BETC program, or are at risk of being discontinued. It is critical for municipalities to have ongoing access to incentive opportunities as energy projects can be difficult to pencil-out and even more difficult for smaller communities to finance. The state of Oregon should take into consideration that loans for public energy projects, including cities, are lower-risk and should not be penalized in light of recent scrutiny. In addition, investments in these projects often result in environmental, social and economic benefits including long-term savings for taxpayers and reductions in greenhouse gas emissions.</p> <p>The League will work to enhance funding, including grants for technical assistance and feasibility studies for communities that currently do not have access to resources. The League will also advocate for incentives for energy and fuel generation projects. Examples of projects that warrant funding incentives include methane capture for fuel or energy generation, investments in community solar projects, renewable energy generation, and energy efficiency improvements.</p>

Energy (Continued)

Legislation	Background
<p><u>G. Require Updates to Oregon Energy Code</u></p> <p>Require the Oregon Building Codes Division (BCD) to engage in more frequent review of the state's energy code to reduce greenhouse gas reductions and ensure that Oregonians can more affordably and efficiently heat their homes and businesses.</p>	<p>Oregon's statewide energy code for commercial and residential buildings is an important tool for achieving greenhouse gas reductions through decreased energy consumption while helping to ensure that Oregonians are able to more efficiently and affordably heat their homes and businesses. Federal law requires each state to certify that their state energy code is equivalent to federal model energy codes. While Oregon was once a leader in energy code adoption and implementation, the state is now in a position of falling behind the federal code. This is due, in large part, to a decision made by the Oregon Building Codes Division in 2013 which changed the code cycle from a three-year update to a six-year update. Major code changes, including adoption of national codes, will now occur every six years with minor changes occurring every three years. This change will impact Oregon's ability to keep pace with federal standards and new technologies in energy efficiency.</p> <p>The League will work to support efforts to align new construction building codes with the state's climate goal timelines. In addition, the League will support efforts to establish a periodic review schedule to ensure that Oregon more frequently updates the state energy code in order to reflect federal code requirements. Also, the League will encourage the state to set specific targets for increased energy efficiency in residential and commercial building construction with specific goals for increasing energy efficiency standards for affordable housing projects and increasing use of net-zero and passive house building requirements. Finally, the League will work to require BCD to make regular reports back to the legislature to update on energy code implementation and goals.</p>

Finance and Tax

Legislation	Background
<p>H. <u>Property Tax Reform – Market Value / Local Control</u></p> <p>A legislative constitutional referral to reform the property tax system:</p> <ul style="list-style-type: none"> a) to achieve equity, transitions to a market based property tax valuation system; and b) to restore choice, allows local voters to adopt tax levies and establish tax rates outside of current constitutional limits in their taxing jurisdictions. 	<p>Property taxes are regulated largely by Measure 5 (1990) and Measure 50 (1997), as provided in the Oregon Constitution. Measure 50 established a new method for assessing property, discounting the assessment at 10 percent of the real market value and calling this assessed value. Assessed value is capped at an annual growth limit of 3 percent. As a state total, due to the limits and market changes, the gap between real market value and assessed value has now grown to nearly 25 percent over the past 20 years. This gap varies widely on a property by property basis, creating considerable property tax inequities for properties that sell for similar prices in a city. In short, Oregon property taxes have become disassociated from real market value and the result is considerable inequity.</p> <p>For FY 2014-15, 60 percent of cities, 97 percent of counties, and 89 percent of school districts had some compression. This means that the Measure 5 caps of \$5 per \$1000 for education and \$10 per \$1000 for general government on real market value have been exceeded in most taxing jurisdictions. The caps are over 25 years old and were set low as voters were anticipating a sales tax to be coupled with it. Voters can no longer vote for the services they desire due to these caps. With looming PERS costs increases, paying for services with the present restrictions will become very difficult in some cities.</p>
<p>I. <u>Property Tax Reform – Fairness and Equity</u></p> <p>A bill that pursues statutory modifications to the existing property tax system that enhances the fairness and adequacy of the current system.</p>	<p>There are some adjustments to the property tax process and calculations that can be done statutorily. These include altering the changed property ratio statute and the statutory discount given to property owners who pay their taxes by November 15th. New property is added to the tax rolls using a county-wide ratio (assessed value to real market value) for determining the discount to apply to the real market value and that could be changed statutorily to a city-wide ratio in taxing districts who elect the change.</p>

Finance and Tax (Continued)

Legislation

J. Local Lodging Tax

A lodging tax bill, the outcome of which, would:

- a) Provide jurisdictions greater flexibility to spend local lodging tax revenue to plan for and provide services and infrastructure related to tourism;
- b) Reduce or eliminate the required reimbursement charge that a lodging tax collector is allowed to retain for filing a local lodging tax return; and
- c) Improve efficiency and collection of local lodging taxes in cooperation with the state.

Background

State law restricts how local lodging tax revenues may be expended. Post 2003, any new taxes or any tax increase requires a 70 percent revenue dedication to tourism promotion or tourism-related facilities. In addition, state statute provides that cities may not lower the actual percentage of lodging tax revenues that were dedicated to tourism prior to 2003. This means that cities have varied percentages of restricted local lodging taxes revenues. These numbers are arbitrary as they were set based on circumstances in 2003 that have often greatly changed. In addition, the legislative history shows that the legislature intended to provide some revenue flexibility and provide that certain infrastructure (roads, sewer lines, etc.) would qualify as tourism-related but the statutes need revision and clarification.

State law requires local governments to provide a 5 percent collector reimbursement charge if they impose a new lodging tax or tax increase after January 1, 2001. This is a deduction from the taxes that would otherwise be due. The state also provides a 5 percent collector reimbursement charge for state lodging taxes. In addition, local governments that had a reimbursement charge, must continue it. Thus, cities have very different reimbursement requirements—some are at zero, others are at 5 percent, and some are in between. When coupled with the state deduction, the deduction seems too generous.

The Oregon Department of Revenue now collects state lodging taxes throughout the state and could collect and enforce local lodging taxes at the same time if given statutory authority. Local governments could then enter into voluntary agreements with the state to delegate the collection. This option could make collection much more efficient and cost-effective for some local governments. In addition, cities continue to struggle with collections and auditing, particularly from online companies and private home rentals (through Airbnb, etc.) and this area of the law could be improved.

Finance and Tax (Continued)

Legislation	Background
<p>K. <u>Nonprofit Property Tax Exemption</u></p> <p>Clarify and reform the statutory property tax exemption provided to nonprofit entities to address cost-benefit concerns for the continued full exemption in light of cost of city services provided to nonprofits and the changing services and business models of some nonprofit entity types.</p>	<p>Nonprofit organizations that are charitable, literary, benevolent or scientific are provided a property tax exemption that will cost more than \$194 million in the 2015-17 biennium. In addition, exemptions for the property of nonprofit religious organizations costs more than \$113 million for the biennium. For many cities, much of the city is exempt from property taxes due to the public property exemption and these nonprofit exemptions. This includes hospitals, nursing homes, etc.</p> <p>The Legislature has formed a work group to look at the nonprofit property tax exemption issue as the nature and number of nonprofits is changing and the administration of the exemption has become complex for county tax assessors. Nonprofit entities require significant services, including transportation, water, sewer, police, fire, etc. Thus, the legislature is looking at property taxes more as a service tax and considering how the full exemption could be adjusted to have nonprofits pay for their fair share of costs of services or otherwise meet a benefit test for continuing an exemption.</p>
<p>L. <u>Marijuana and Vaping Taxes</u></p> <p>Defend against restrictions and preemptions regarding local marijuana and vaping taxes and advocate for appropriate state shared revenue levels and distribution formulas for state marijuana taxes and potential vaping taxes.</p>	<p>There are no revenue use restrictions on local marijuana taxes, but the local marijuana tax rate is capped at 3 percent. There are no restrictions on local governments imposing a vaping tax. The state has not imposed a tax on vaping products to date but is considering a tax. Often when the state imposes a tax (for example, cigarette or liquor), the state preempts local governments from also imposing a tax.</p> <p>10 percent of state marijuana taxes will be distributed to cities after state administrative costs. Distributions will be made per capita for revenues received prior to July 1, 2017. After July 1, they will be distributed based on the number of the various marijuana licenses issued in a city. Cities that prohibit establishments for recreational marijuana producers, processors, wholesalers or retailers will receive no state shared revenue. Likewise, cities that prohibit a medical marijuana grow site or facility will receive no state shared revenue.</p>

General Government

Legislation	Background
<p>M. <u>Restore Recreational Immunity</u></p> <p>Cities should enjoy protection from unreasonable litigation when offering recreational opportunities to the public.</p>	<p>ORS 105.682 grants that a land owner is not liable for any personal injury, death or property damage that arises out of the use of their land for recreational purposes as long as no fee is charged in order to access that property. This statute allows cities to operate parks and trails without fear of lawsuit.</p> <p>However, in the recently decided Oregon Supreme Court case, <i>Johnson v Gibson</i>, It was held that even though the landowner may be immune from liability, their employees are not. As a result, two employees of the City of Portland were found liable for injuries sustained by a jogger in a park, employees who are indemnified by their employer.</p> <p>The practical effect of this ruling is that the immunity previously enjoyed by cities that allowed for robust park development have been eroded to the point of being non-existent. This priority directs LOC staff to seek to amend the ORS 105.682 to restore that immunity.</p>
<p>N. <u>Increase Local Liquor Fees</u></p> <p>Cities play an important role in the review and investigation of liquor license applicants and should be able to recoup costs associated with that role.</p>	<p>ORS 471.166 allows cities to adopt fees that are “reasonable and necessary to pay expenses” associated the review and investigation of liquor license applicants. However, the same statute limits the amounts of those fees to between \$25 and \$100 depending on the license or approval being sought by the applicant.</p> <p>This priority is to pursue changes to this statue that allow cities to recoup the actual costs associated with performing their role in the liquor licensing process and allowing for periodic increases.</p>

General Government (Continued)

Legislation	Background
<p><u>O. Continue Marijuana Legalization Implementation</u></p> <p>Allow for civil enforcement of marijuana laws. Ensure equitable distribution of marijuana shared revenues. Eliminate limitations on shared revenue use.</p>	<p>One of the promises made by marijuana legalization advocates is that illicit sales and production of marijuana would shift into a legalized and regulated market. This has occurred to a large extent but many producers and retailers continue to seek the financial benefits or participation in the marijuana industry while avoiding the inconvenience of its regulatory framework. This priority seeks legislation that gives the Oregon Liquor Control Commission (OLCC) the same civil and administrative authority to prevent unlicensed sales and production of marijuana as it has in regards to liquor.</p> <p>Beginning in 2017, state shared revenue from marijuana will be distributed to cities based in the number of OLCC licensed commercial marijuana entities exist in their jurisdiction. This priority is to alter that arrangement so that is it distributed on a per capita basis to ensure equitable distribution among cities that are incurring costs.</p> <p>Measure 91 required that money distributed by the state to cities be used exclusively for costs associated with marijuana legalization. Tracking a dollar through a city's general fund and determining if a service was related to marijuana is inefficient if not impossible, and is not imposed for the receipt of liquor revenue. This priority is to advocate for legislation that removes this burden.</p>
<p><u>P. Protect Mental Health Investments Made in 2015</u></p> <p>Oregon made significant and strategic investments in protecting and caring for the mentally ill in 2015 that should be maintained.</p>	<p>The Legislature increased access to mental health care and expanded existing, proven programs designed to de-escalate police contacts with the mentally ill. Those programs could be vulnerable in a difficult budget environment made challenging by increased PERS rates.</p> <p>This priority is defensive in nature and seeks to preserve investments that are improving the lives of mentally ill Oregonians.</p>
<p><u>Q. Remove Qualification Based Selection Mandate</u></p> <p>Cities should be allowed to consider cost when making initial contract award decisions when hiring architects and engineers.</p>	<p>Cities are currently required to use a procurement method that prevents the consideration of cost when contracting with architects and engineers for public improvements. Instead, cities must base their initial selection for these services based solely on qualifications and can only negotiate the price after an initial selection is made.</p> <p>This mandate is not a cost effective means for procuring services and is poor stewardship of the public's dollars. This priority is to seek the removal of this mandate.</p>

Human Resources

Legislation	Background
<p>R. <u>Repeal Requirement to Subsidize Retiree Health Insurance</u></p> <p>Public employers should not subsidize the health insurance of former employees when reasonable, cost competitive options exist.</p>	<p>ORS 243.303 mandates that local governments provide retirees with access to health insurance and requires that they be placed in the same risk pool as active employees. As retirees are approximately 2.5 times more expensive to insure than active employees this mandate results in employers and current employees subsidizing the health insurance costs of former employees. This subsidization, according to the Government Accounting Standards Board, must be shown on an audit as long term liability, thus creating an inaccurate perception of a city's financial condition. Further, this requirement could be described as anachronistic as individuals are now able to purchase health insurance under the Affordable Care Act.</p> <p>This priority is to eliminate ORS 243.303 from Oregon's laws.</p>
<p>S. <u>PERS Reform</u></p> <p>PERS benefits should be adjusted where legally allowable and investments should be maximized to ensure a sustainable and adequate pension system.</p>	<p>The PERS unfunded liability stands at \$22 billion and employer rates are anticipated to approach 30 percent of payroll in the coming biennium. Rates are expected to remain at that level for the next twenty years. This is not sustainable.</p> <p>This priority is to seek any equitable changes to benefits that will reduce employer rates while not pursuing options that are legally tenuous or counterproductive. Additionally, changes are to be sought to the investment portfolio that will maximize returns through improved risk management and efficiencies.</p>

Human Resources (Continued)

Legislation	Background
<p>T. <u>Arbitration Changes</u></p> <p>Public employers should have greater influence over the disciplining of their employees.</p>	<p>Currently under the Public Employee Collective Bargaining Act, contested employee discipline matters must be submitted to an outside arbitrator for adjudication. Decisions by arbitrators are binding unless the conduct was a violation of public policy as defined by the state, there was serious criminal conduct or an egregious inappropriate use of force.</p> <p>This priority is to seek the following changes to the statute:</p> <ul style="list-style-type: none">• Arbitrator decisions should also comply with local policies;• Decisions should comply with policies related to any inappropriate use of force a;• Arbitrator decisions should recognize all criminal misconduct related to employment not just “serious”;• Employer disciplinary decisions as it regards employees who are supervisors as defined by the EEOC and BOLI should be given more weight.
<p>U. <u>Veterans Preference Clarifications</u></p> <p>Requirements that veterans be given preference in public sector hiring should be clear and unambiguous for the benefit of veterans and employers.</p>	<p>The State of Oregon requires and the League agrees that honorably discharged veterans deserve special consideration in public sector hiring. However, statutes describing how this is to be accomplished are unclear and ambiguous. Vague statutes do not serve the interests of employers or veterans.</p> <p>This priority seeks a clear definition of “preference” in the statute, ensure that recently separated veterans receive the consideration necessary for them to successfully enter the workforce and establishes clarity as to when the preference is to be applied.</p>

Telecommunications, Cable & Broadband

Legislation	Background
<p>V. <u>Rights of Way</u></p> <p>Oppose legislation that preempts local authority to manage public rights-of-way and receive compensation for their use.</p>	<p>In its commitment to the protection of Home Rule and local control, the League consistently opposes restrictions on the rights of cities to manage their own affairs. From time to time, in the context of franchise fee and rights-of-way management authority discussions, proposals to restriction to this authority arise. These include a statewide franchise policy and revenue collection system as well as limiting the ability of cities to charge fees of other government entities. This is contrary to local government management authority, the ability to enter into agreements with service providers either by agreement/contract or ordinance and to derive revenues from business fees charged to users of public rights-of-way.</p>
<p>W. <u>Franchise Fees</u></p> <p>To ensure market fairness and equity, prepare legislation for possible introduction repealing ORS 221.515 (HB 2455 -7 in 2013, and HB 2172 in 2015) to remove franchise fee rate and revenue restrictions which currently apply to incumbent local exchange carriers but not to competitive local exchange carriers.</p>	<p>Oregon statute currently contains a discrepancy between how cities collect franchise fees from incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs). ORS 221.515 limits cities collecting franchise fees from ILECs to a maximum of 7 percent of revenues derived from dial-up services, which represents only a portion of ILEC total revenues due to the addition of a broader array of customer services. There is no such rate cap or revenue restriction on CLECs, hence the discrepancy. In the past the League has worked with CLECs to “level the playing field.” Repeal of ORS 221.515 would accomplish that.</p>
<p>X. <u>9-1-1 Emergency Communications</u></p> <p>Support legislation enhancing the effectiveness of the state’s emergency communications system through an increase in the 9-1-1 tax and/or a prohibition of legislative “sweeps” from accounts managed by the Oregon Office of Emergency Management.</p>	<p>The League worked with other stakeholder groups in 2013 to extend the sunset date on the statewide 9-1-1 emergency communications tax to January 1, 2022 (HB 3317). In 2014, the League also worked to pass legislation including prepaid cellular devices and services under the 9-1-1 tax (HB 4055). As concerns mount with regard to disaster preparedness and recovery and as new upgrades to communications technology becomes available, it is apparent that state and local governments do not have the resources necessary to address challenges or take advantage of opportunities. Additional funding is needed and the practice of periodically sweeping funds out of the state’s emergency management account for other uses should cease. It is worthy of note that the practice of “sweeps” disqualifies the state from receiving federal funds for emergency communications. It is unknown how many federal dollars have been foregone as a result of this policy.</p>

Telecommunications, Cable & Broadband (Continued)

Legislation	Background
<p data-bbox="120 302 386 331">Y. <u>Technology Funding</u></p> <p data-bbox="120 369 634 399">Seek additional funding to assist for cities in:</p> <ul data-bbox="168 436 748 676" style="list-style-type: none"><li data-bbox="168 436 748 499">• Increasing high speed broadband deployment and close the digital divide.<li data-bbox="168 506 748 569">• Purchasing upgraded emergency management communications equipment.<li data-bbox="168 575 748 676">• Providing local match money for federal funding programs, such as high speed broadband deployment.	<p data-bbox="776 296 1479 701">The deployment of broadband throughout the state of Oregon is critical to economic development, education, health and the ability of citizens to link with their governments. Additional funding, from various sources, including the state and federal government, needs to be allocated for this purpose. The need becomes even more acute when consideration is given to the certainty of a major seismic event. Often federal assistance comes with the requirement of a state or local match which is problematical for cities. A state mechanism for providing matching fund assistance would be helpful to those communities seeking to take control of their broadband destiny.</p>

Transportation

Legislation	Background
<p data-bbox="113 233 764 304">Z. <u>Comprehensive, Multi-modal Transportation Funding and Policy Package</u></p> <p data-bbox="113 338 764 611">The League of Oregon Cities proposes that transportation infrastructure be raised to the same level of importance as other utilities, and be funded at a level capable of maintaining appropriate standards of operation and service. Therefore, the League will help draft and advocate for a comprehensive, inter-modal and statewide transportation funding and policy package that:</p> <ol data-bbox="162 646 764 1858" style="list-style-type: none"> <li data-bbox="162 646 764 1554">1. Provides a significant increase in resources available for the preservation and maintenance of city streets by: <ul data-bbox="211 787 764 1554" style="list-style-type: none"> <li data-bbox="211 787 764 850">• Substantially increasing the state gas tax and licensing and registration fees. <li data-bbox="211 856 764 888">• Indexing the state gas tax. <li data-bbox="211 894 764 1029">• Continuing efforts to identify and implement alternative funding mechanisms (VMT, tolling, public-private partnerships, etc.). <li data-bbox="211 1035 764 1098">• Disaster resilience and seismic upgrades for all transportation modes. <li data-bbox="211 1104 764 1199">• The completion of transportation projects begun but not yet completed due to lack of funding or changes in funding criteria. <li data-bbox="211 1205 764 1268">• Providing additional funding for voluntary jurisdictional transfer. <li data-bbox="211 1274 764 1337">• Funding transportation enhancements such as bike-ped facilities. <li data-bbox="211 1344 764 1438">• Increasing funding for the statutory Special City Allotment program while maintaining the 50%-50% ODOT/city split. <li data-bbox="211 1444 764 1554">• Repealing the referral requirement (2009 Jobs and Transportation Act) on cities seeking to create/increase local gas tax. <li data-bbox="162 1585 764 1858">2. Addresses statewide needs relating to intermodal transportation through: <ul data-bbox="211 1690 764 1858" style="list-style-type: none"> <li data-bbox="211 1690 764 1753">• Additional funding for transit operations and capital projects. <li data-bbox="211 1759 764 1858">• Additional funding for freight rail capital projects and operations (<i>ConnectOregon</i>, short-line rail and transload facilities). 	<p data-bbox="764 233 1508 745">Maintenance and preservation needs have outpaced the resources available for streets, roads and highways. In its March, 2016 Infrastructure Survey Report the League identifies a \$3.7 billion capital need for highway and non-highway transportation projects (\$2.6 billion highway / \$1.1 billion non-highway). In addition, the report shows, for the 120 cities that participated, an aggregated street budget shortfall for operations and maintenance of approximately \$217 million per year. Safety and disaster resilience were cited as major challenges and needs by most cities. Cities also expressed support for a voluntary jurisdictional transfer program (the sensible alignment of highway facilities and management responsibility) provided the availability of adequate funding to facilitate the transfer and to maintain the asset.</p> <p data-bbox="764 779 1508 1228">Given the threat that inadequate funding represents to investments already made in the transportation system, the League will insist on a transportation package that increases and makes more sustainable the ability of all government jurisdictions to preserve and maintain these assets. Notwithstanding its emphasis on the need to preserve and maintain existing streets, the League of Oregon Cities agrees that the state’s transportation system and the policy and funding programs that support it must be multimodal and statewide in scope. The League will therefore work to pass legislation in 2017 that addresses funding and policy initiatives relating to all modes (streets, bike/ped, transit, rail, aviation and marine) and in so doing address such issues as:</p> <ul data-bbox="828 1262 1508 1858" style="list-style-type: none"> <li data-bbox="828 1262 1508 1325">• Connectivity and capacity (especially truck mobility/rail) <li data-bbox="828 1331 1508 1362">• Safety for all users across all modes <li data-bbox="828 1369 1508 1432">• Resiliency and recovery (seismic retrofit across all modes) <li data-bbox="828 1438 1508 1470">• Jobs and economic development <li data-bbox="828 1476 1508 1507">• Impact on climate change <li data-bbox="828 1514 1508 1545">• Active transportation and public health <li data-bbox="828 1551 1508 1614">• Transportation access available on an equitable basis to all Oregonians <li data-bbox="828 1621 1508 1684">• Continuing and extending <i>ConnectOregon</i> <li data-bbox="828 1690 1508 1753">• Ensuring adequate <u>new</u> revenues for program/equipment such as the Oregon Department of Motor Vehicles technology upgrade <li data-bbox="828 1759 1508 1858">• Creative solutions to ongoing challenges (dedicated non-roadway fund, increased local authority to fund transit, bike-ped funding, etc.)

- **Additional funding for passenger rail operations, equipment and capital projects (federal matching money and AMTRAK Cascades).**

3. Does not:

- **Preempt local government ability to self-generate transportation revenues for street maintenance and preservation.**
- **Change the dedication of State Highway Fund dollars to highway, road and street projects contained in Article 8, Section 3a of the Oregon Constitution.**
- **Reduce cities 20% share of the State Highway Fund.**
- **Create unfunded mandates requiring cities to undertake specific programs, such as greenhouse gas reduction scenarios.**
- **Further complicate the planning and regulatory process that currently governs the project delivery process.**

- **Maximizing local benefits of the federal FAST Act in Oregon**

Water & Wastewater

Legislation

AA. Funding for Water System Resilience

Secure dedicated funding for water and wastewater system resilience and emergency preparation. This would include additional funds to plan for and upgrade water systems to increase seismic resiliency and funding to better position communities to better prepare for water supply shortages due to drought, climate change or other emergency scenarios.

Background

In general, Oregon's drinking water and wastewater systems are woefully underprepared for a catastrophic earthquake event. Restoration of water supply following such an event is critical for fire suppression, first aid, and for human health and safety. In 2013, the Oregon Resilience Plan provided estimates for service recovery of water and wastewater systems in the event of a Cascadia earthquake under current infrastructure conditions. According to the plan, the estimated timeframe for service recovery in the valley ranges from one to twelve months. For the coast, service recovery is estimated between one to three years.

In addition to risks associated with significant natural disaster events, recent drought conditions in Oregon have demonstrated the need for emergency supply planning and coordination with other water users to better address water supply challenges. It is critical that communities are able to acquire alternative and back-up water supplies from multiple sources in order to better prepare for supply shortages or emergency situations, such as natural disasters or supply contamination.

The League will work to identify and secure low-interest loans or grants to seismically upgrade drinking water and wastewater system infrastructure and to help ensure that these systems are more resilient and better positioned to respond to water supply shortages resulting from drought, climate change, natural disasters, or other system failures.

Water & Wastewater (Continued)

Legislation	Background
<p>BB. <u>Promote an Enhanced Prescription Drug Take-Back</u></p> <p>Advocate for enhanced prescription drug take-back program funding and additional collection locations to reduce contamination of water from unwanted prescription drugs.</p>	<p>Unused prescription drugs are problematic from both a public health and safety perspective as well as from a water quality perspective. Drug take-back programs help to ensure that unused prescription drugs are properly disposed of which keeps them from being abused, keeps them out of the hands of children, and keeps them from entering Oregon’s waterways. Unwanted prescription drugs are often flushed down the toilet and despite wastewater treatment systems, they can end up contaminating lakes, streams and rivers. In 2014, U. S. Drug Enforcement Administration (DEA) expanded the types of locations allowed to accept unwanted medications including retail pharmacies and drug manufacturers. Prior to 2014, drug-take back programs were primarily supported through police department drop boxes. The challenge in expanding prescription drug take-back programs is now focused on the cost of transporting unused drugs from the take-back location to the disposal site and in educating the public about responsible disposal opportunities.</p> <p>The League will work with a variety of stakeholders, including public health advocates, to identify additional funding mechanisms to increase drug take-back collection locations across Oregon. Funding should support the transportation and responsible disposal of unused prescription drugs. Funds should also be dedicated for enhanced education of disposal opportunities and the establishment of convenience standards to ensure that all Oregonians have reasonable access to drug take-back locations.</p>
<p>CC. <u>Increased Funding for Water Supply Development</u></p> <p>Support additional water supply funding through the state’s Water Supply Development Account.</p>	<p>According to a survey conducted by the League, Oregon’s water and wastewater infrastructure needs for cities alone are estimated to be \$9 billion over the next twenty years. In addition, the survey identified 66 percent of respondent cities as being in need of additional water supply storage. The 2015 drought highlighted the need for additional investments in water supply infrastructure, including storage and water delivery system efficiencies. Additional storage project investments are not only critical for adequate drinking water supply, they are an important tool for supplementing streamflows and habitat restoration.</p> <p>The League will work to secure additional funding for existing water supply development programs. This includes support for feasibility grants and for the state’s Water Supply Development Account which provides funding for water supply storage, reuse, restoration and conservation projects.</p>

PROPOSED COMMISSION WORK SESSION SCHEDULE

8/9/	City Manager Recruitment Process
8/23	Tide Gate Replacement/Repairs
9/13	Housing
9/27	Street Standards