



CITY OF CANNON BEACH

AGENDA

Meeting: City Council Special Meeting and Work Session
Date: Tuesday, April 16, 2024
Time: 6:00 p.m.
Location: Council Chambers, City Hall

CALL TO ORDER AND APPROVAL OF AGENDA

PUBLIC COMMENT

The Presiding Officer will call for statements from citizens regarding issues relating to the City. The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.

ACTION ITEMS

- (1) **Resolution 24-06 for the purpose of Authorizing the Execution and Delivery of Full Faith and Credit Obligations in an Amount Not To Exceed \$33,350,000 to Finance Capital Projects; Designating an Authorized Representative and Special Counsel; and Related Matters**
If Council wishes to adopt Resolution 24-06 the appropriate motion is in order
- (2) **Resolution 24-07 for the Purpose of Approving Increases and Decreases to the FY 2023-2024 Budget by Making an Intrafund Transfer of Appropriations for the City Hall and Police Station Project**
If Council wishes to adopt Resolution 24-07 the appropriate motion is in order
- (3) **Resolution 24-08 for the Purpose of for the Purpose of Approving Increases and Decreases to the FY 2023-2024 Budget by Making an Intrafund Transfer of Appropriations for the Recycle Baler**
If Council wishes to adopt Resolution 24-08 the appropriate motion is in order
- (4) **Consideration of the Minutes of the**

March 5	Council Meeting
March 6	CBE
March 12	Work Session
March 19	CBE
March 27	Code Rewrite

CLOSE SPECIAL MEETING AND OPEN WORK SESSION

DISCUSSIONS

- (5) **Adopting Limitation of Liability for Claims Arising from the Public's use of Trails or Structures in a Public Easement or Unimprovement Right of Way**

- (6) **Short Term Rental (STR) Discussion**
- (7) **Land Use Fee Discussion**
- (8) **CBE Project Management Committee**
- (9) **Pledge of Allegiance Discussion**

- (10) **Good of the Order**

ADJOURNMENT

To join from your computer, tablet or smartphone

Join Zoom Meeting

<https://zoom.us/j/99261084699?pwd=TkpjbGcxS0pCOGIMOCtSbSsxVWFMZz09>

Meeting ID: 992 6108 4699

Password: 365593

To join from your phone:

Phone: 1.669.900.6833

Meeting ID: 992 6108 4699

Password: 365593

View Our Live Stream: View our [Live Stream](#) on YouTube!

Public Comment: If you wish to provide public comment via Zoom for this meeting please use the raise your hand Zoom feature. Except for a public hearing agenda item, all Public to be Heard comments will be taken at the beginning of the meeting for both Agenda and Non-Agenda items. If you are requesting to speak during a public hearing agenda item, please indicate the specific agenda item number as your comments will be considered during the public hearing portion of the meeting when the public hearing item is considered by the Council. All written comments received by 3:00 pm the day before the meeting will be distributed to the City Council and the appropriate staff prior to the start of the meeting. These written comments will be included in the record copy of the meeting. Written comments received at the deadline will be forwarded to Council and included in the record but may not be read prior to the meeting or appear on the city's website.

Please note that agenda items may not be considered in the exact order listed. For questions about the agenda, please contact the City of Cannon Beach at (503) 436.8052. The meeting is accessible to the disabled. If you need special accommodations to attend or participate in the meeting per the Americans with Disabilities Act (ADA), please contact the City Manager at (503) 436.8050. TTY (503) 436-8097. This information can be made in alternative format as needed for persons with disabilities.

Posted: 2024.04.11



CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF RESOLUTION 24-06 FOR THE PURPOSE OF AUTHORIZING THE EXECUTION AND DELIVERY OF FULL FAITH AND CREDIT OBLIGATIONS IN AN AMOUNT NOT TO EXCEED \$33,350,000 TO FINANCE CAPITAL PROJECTS; DESIGNATING AN AUTHORIZED REPRESENTATIVE AND SPECIAL COUNSEL; AND RELATED MATTERS.

Agenda Date: April 16th, 2024

Prepared by: Bruce St.Denis, City Manager

BACKGROUND

At the April 9th meeting bond attorney Courtney Dauz and Financial Advisor Matt Donahue presented the Bond Resolution and answered Council's questions. At the same meeting, Council discussed budget revisions for the Police Station, City Hall and Cannon Beach Elementary School projects. Council instructed staff to present an amount for the bond based on their discussion and to include what the bond payments would be and the source of funding.

ANALYSIS/INFORMATION

Attachment A is the Resolution to securing financing for the Police Station, City Hall and Cannon Beach Elementary School projects. Attachment B provides the bond amount, payment schedule and funding sources.

RECOMMENDATION

Approve Resolution 24-06

Suggestion Motion:

"I move to approve Resolution 24-06 for the purpose of Authorizing the Execution and Delivery of Full Faith and Credit Obligations in an Amount Not To Exceed \$33,350,000 To Finance Capital Projects; Designating an Authorized Representative and Special Counsel; and Related Matters.

List of Attachments:

- A Resolution 24-06
- B Bond Issue Sources & Uses of Funds

BEFORE THE CITY OF CANNON BEACH

AUTHORIZING THE EXECUTION)	RESOLUTION NO. 24-06
AND DELIVERY OF FULL FAITH)	
AND CREDIT OBLIGATIONS IN AN)	
AMOUNT NOT TO EXCEED \$33,350,000)	
TO FINANCE CAPITAL PROJECTS;)	
DESIGNATING AN AUTHORIZED)	
REPRESENTATIVE AND SPECIAL)	
COUNSEL; AND RELATED MATTERS.)	

WHEREAS, City of Cannon Beach, Clatsop County, Oregon (the “City”) is authorized by Oregon Revised Statutes (“ORS”) Section 271.390 and 287A.315 to enter into financing agreements to finance real and personal property which the City determines is needed, (ii) to pledge its full faith and credit, and (iii) pay the costs of issuance of such financing agreements; and

WHEREAS, the Charter of the City does not (1) prohibit the City from entering into a financing agreement and pledging its full faith and credit as security for a financing agreement, nor (2) require a non-appropriation clause to be included in a financing agreement; and

WHEREAS, the City has determined that capital projects are needed including (i) updating, remodeling, and equipping the former elementary school property to serve primarily as a tourism-related facility with tangential benefits as a community center, (ii) constructing, remodeling, furnishing, and equipping a new city hall, and (iii) constructing, furnishing, and equipping a new police station, and related capital projects (collectively, the “Projects”); and

WHEREAS, the estimated weighted average life of the financing agreement will not exceed the estimated dollar weighted average life of the Projects; and

WHEREAS, the City anticipates incurring expenditures (the “Expenditures”) to finance the costs of the Projects and wishes to declare its official intent to reimburse itself for any Expenditures it may make from City general funds on the Projects from the proceeds of a financing agreement, the interest on which may be excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the City desires to authorize the execution and delivery of a financing agreement(s) to finance the Projects and related matters.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON AS FOLLOWS:

Section 1. Authorization. The Council hereby authorizes:

A. Financing Agreement. The City authorizes the execution and delivery of one or more full faith and credit financing agreements (the “Financing Agreement”) in a form satisfactory to the Authorized Representative (defined herein). The aggregate principal amount of the Financing Agreement may not exceed \$33,350,000 and the proceeds shall be used to finance the Projects. The Financing Agreement may be issued as taxable and/or tax-exempt obligations at a true effective rate(s) as determined by the Authorized Representative and shall mature on date(s) set by the Authorized Representative.

B. Method of Sale. As determined by the Authorized Representative, the Financing Agreement may be entered into directly with a lender (a “Private Placement”) and obligations representing the principal amount payable under the Financing Agreement may be sold to an underwriter by negotiated or competitive sale (a “Public Offering”).

C. Private Placement. The Financing Agreement may be evidenced by a note and entered into with a lender(s) as determined by the Authorized Representative.

D. Public Offering. The Financing Agreement may be issued through a Public Offering. If the Financing Agreement is issued through a Public Offering, the City authorizes the issuance and sale of full faith and credit obligations (the “Obligations”) which shall be issued by the escrow agent, for and on behalf of the City, representing the principal amount payable under the Financing Agreement. The Obligations may be issued in one or more series, shall be issued at a true effective rate as determined by the Authorized Representative and shall mature on dates set by the Authorized Representative. The City authorizes the execution and delivery of one or more escrow agreements between the City and the escrow agent (the “Escrow Agreement”), in a form satisfactory to the Authorized Representative, pursuant to which the escrow agent shall execute the Obligations representing the principal amount payable under a Financing Agreement, and evidencing the right of the escrow agent to receive the City’s Financing Payments under a Financing Agreement.

Section 2. Security.

The Financing Agreement shall be payable from the designated funds which are lawfully available and the general, non-restricted revenues of the City and other funds which may be available for that purpose, including taxes levied within the restrictions of Sections 11 and 11b, Article XI of the Constitution of the State of Oregon. The obligation of the City to make payments under the Financing Agreement shall be a full faith and credit obligation of the City, not subject to annual appropriation. The Financing Agreement shall not be secured by any real or personal property of the City. The City reserves the right to issue additional full faith and credit obligations of the City.

Section 3. Designation of Authorized Representative.

The City hereby authorizes the City Manager, the Finance Director, or the designee of either one of them (the “Authorized Representative”) to act as the authorized representative on behalf of the City and determine the remaining terms of the Financing Agreement as delegated herein.

Section 4. Delegation of Final Terms and Additional Documents.

The Authorized Representative is authorized, on behalf of the City, to:

A. determine the method of sale, determine the provisions of the notice of sale if sold at a competitive sale, act upon bids received, negotiate the terms of, and execute and deliver a purchase agreement if sold at a negotiated sale, and negotiate the terms of, and execute and deliver documents if privately placed with a lender;

B. establish the maturity and interest payment dates, dated dates, principal amounts, capitalized interest (if any), optional and/or mandatory redemption provisions, interest rates, draw-down provisions, amortization schedules, covenants, fees, denominations, defeasance requirements, denominations, and all other terms under which the Financing Agreement and Obligations shall be issued, sold, executed, and delivered;

C. negotiate the terms and approve of the Financing Agreement and the Escrow Agreement, if applicable, as the Authorized Representative determines to be in the best interest of the City, and to execute and deliver the Financing Agreement and the Escrow Agreement;

D. deem final, approve of and authorize the distribution of the preliminary and final Official Statements to prospective purchasers of the Obligations;

E. determine whether the Obligations shall be Book-Entry certificates and to take such actions as are necessary to qualify the Obligations for the Book-Entry System of DTC, including the execution of a Blanket Issuer Letter of Representations;

F. apply for ratings for the Obligations and determine whether to purchase municipal bond insurance or other credit enhancement, negotiate and enter into agreements with providers of credit providers, and expend proceeds to pay credit enhancement fees;

G. determine if the Financing Agreement will be issued on a tax-exempt basis and/or a taxable basis; and all other terms of the Financing Agreement and approve, execute and deliver the Financing Agreement;

H. designate the Financing Agreement and the Obligations as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) if they qualify for such designation;

I. approve, execute and deliver a Tax Certificate for that portion of the Financing Agreement issued on a tax-exempt basis;

J. approve, execute and deliver a continuing disclosure certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, §240.15c2-12) for each series of Obligations;

K. engage the services of a lender, underwriter, escrow agents, financial advisors, trustees and any other professionals whose services the Authorized Representative determines are necessary or desirable for the Financing Agreement or Obligations;

L. determine which fund or funds are available to pay the Financing Agreement; and

M. execute and deliver a certificate specifying the action taken pursuant to this Resolution, and any other documents, agreements or certificates that the Authorized Representative determines are necessary and desirable to issue, sell and deliver the Financing Agreement and Obligations in accordance with this Resolution; and

N. take any other actions which the Authorized Representative determines are necessary or desirable to finance the Projects in accordance with this Resolution.

Section 5. Preservation of Tax Exemption for Interest on Financing Agreement.

The City covenants that it will take all actions necessary to prevent interest on a tax-exempt Financing Agreement from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of a tax-exempt Financing Agreement or other funds of the City treated as proceeds of the Financing Agreement at any time during the term of the Financing Agreement which will cause interest on the Financing Agreement to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), is applicable to the Financing Agreement, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Financing Agreement, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Financing Agreement from being included in gross income for federal income tax purposes.

Section 6. Appointment of Paying Agent and Registrar.

The City appoints Zions Bancorporation, National Association as Paying Agent and Registrar for the Obligations. The Authorized Representative is authorized to negotiate and execute on behalf of the City the Paying Agent and Registrar Agreement. In addition, the City requests and authorizes the Paying Agent and Registrar to execute the Obligations.

Section 7. Appointment of Special Counsel.

The City appoints Foster Garvey P.C. as special counsel to the City for the issuance of the Financing Agreement and the Obligations.

Section 8. Appointment of Underwriter/Placement Agent or Lender.

The Authorized Representative is authorized to appoint an underwriter/placement agent and/or lender for the Financing Agreement.

Section 9. Appointment of Municipal Advisor.

The City appointed D.A. Davidson & Co. as municipal advisor to the City in connection with the issuance of the Financing Agreement and Obligations.

Section 10. Continuing Disclosure.

The City covenants and agrees to comply with and carry out all of the provisions of the Continuing Disclosure Agreement which may be negotiated with the underwriter. Notwithstanding any other provision of this Resolution, failure by the City to comply with the Continuing Disclosure Agreement will not constitute an event of default; however, any owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section and the Continuing Disclosure Certificate.

Section 11. Preliminary and Final Official Statement.

The City may prepare or cause to be prepared a preliminary official statement for the Obligations which shall be available for distribution to prospective purchasers. In addition, an official statement may be prepared and shall be ready for delivery to the purchasers of the Obligations no later than the seventh (7th) business day after the sale of the Obligations. When the City determines that the final official statement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained in the official statement not misleading in the light of the circumstances under which they are made, the Authorized Representative is authorized to certify the accuracy of the official statement on behalf of the City.

Section 12. Closing of the Financing Agreement.

The Authorized Representative is authorized to negotiate the terms and conditions of a term sheet or commitment letter in the case of a Private Placement or a purchase agreement in the case of a Public Offering. The Authorized Representative is authorized to execute the term sheet, commitment letter, and/or the purchase agreement, as the case may be, for and on behalf of the City and to execute such additional documents, including a Tax Certificate, and to perform any and all other things or acts necessary for the sale and delivery of the Financing Agreement or Obligations as herein authorized. Such acts of the Authorized Representative are for and on behalf of and are authorized by the Council of the City.

Section 13. Resolution to Constitute Contract.

In consideration of the purchase and acceptance of any or all of the Financing Agreement or Obligations by those who shall own the same from time to time (the “Owners”), the provisions of this Resolution shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Financing Agreement or Obligations and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Financing Agreement and Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

Section 14. Bank Designation.

For purposes of paragraph (3) of Section 265(b) of the Code, the Authorized Representative is authorized to designate a Financing Agreement as a “qualified tax-exempt obligation” provided such Financing Agreement does not constitute a private activity bond as defined in Section 141 of the Code and not more than \$10,000,000 aggregate principal amount of obligations, the interest on which is excludable under Section 103(a) of the Code from gross income for federal income tax purposes (excluding, however, private activity bonds other than qualified 501(c)(3) bonds) including such Financing Agreement have been or reasonably expects to be issued by the City, including all subordinate entities of the City, if any, during the current calendar year in which such Financing Agreement is entered into.

Section 15. Intent to Reimburse.

The City hereby declares its official intent to reimburse its general fund with the proceeds of the Obligation proceeds for any of the Expenditures incurred by it prior to the issuance of the Obligations.

Section 16. Post Issuance Compliance Procedures.

The Authorized Representative is authorized to prepare procedures regarding post issuance compliance related to obligations of the City.

Section 17. Effective Date.

This resolution shall take effect on the date of its adoption.

This resolution is adopted by the Council of the City of Cannon Beach this 16 day of April 2024,
by the following roll call vote:

YEAS:

NAYS:

EXCUSED:

Barb Knop, Mayor

ATTEST:

Bruce St. Denis, City Manager



Bond Issue Sources & Uses of Funds

2023 - 2024 Bond Issues

Determination of Amount of Bonds to Issue

As Of 4/11/2024 14:15

Bonds Proceeds:

Principle - Bonds Issued in Spring 2024 (Pending)	15,300,000	10,250,000	7,800,000	33,350,000
Principle - Bonds Issued in Spring 2022 (Issued)			4,600,000	4,600,000
	15,300,000	10,250,000	12,400,000	37,950,000

Project Costs:

General Contractor Costs	15,295,274	10,241,772	12,403,492	37,940,538
Owner Supplied Costs	325,000	260,000	163,000	748,000
Owner Supplied Costs Funded By General Fund	(325,000)	(260,000)	(163,000)	(748,000)
	15,295,274	10,241,772	12,403,492	37,940,538

Project Surplus (Deficit):

Bond Proceeds More Than (Less Than) Costs	4,726	8,228	(3,492)	9,462
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Determination of How to Pay For Bonds

Annual Debt Service:

	City Hall	Police	Necus Park	Total
Debt Service - Bonds Issued in Spring 2024 @ 4.58%	925,876	620,389	472,294	2,018,558
Debt Service - Bonds Issued in Spring 2022 @ 3.32%			248,000	248,000
Total Debt Service Based on Issue Amounts Above	925,876	620,389	720,294	2,266,558
Total Debt Service Based on Issue Amounts Above	(A) 925,876	(B) 1,546,264	720,294	2,266,558

Sources Used to Funds Bond Payments:

		City Hall / Police	Necus Park	Total
30% of 1.5% Increase in TRT	\$68,750,000 Estimated Taxable Room Revenue X 1.5% X 30% = \$309,375	309,375		309,375
70% of 1.5% Increase in TRT	\$68,750,000 Estimated Taxable Room Revenue X 1.5% X 70% = \$721,875		721,875	721,875
50% of Annual PFST	\$35,700,000 Estimated Taxable Food Revenue X 5% X 50% = \$892,500	892,500		892,500
Transfer From RV Park Reserve Funds	Discretionary	200,000		200,000
Transfer From General Fund Reserve	Discretionary	150,000		150,000
TAF Fund Annual Revenue	\$68,750,000 Estimated Taxable Room Revenue X 1% X 70% = \$481,250 (Possible Source)	Possible Source		-
Clatsop County TRT Fund Annual Revenue	\$68,750,000 Estimated Taxable Room Revenue X 1% X 70% = \$481,250		481,250	481,250
Total Sources of Funds to Pay Debt Service		1,551,875	1,203,125	2,755,000
Excess (Deficit) Sources of Funds to Make Bond Payments		5,611	482,831	488,442



CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF RESOLUTION 24-07 FOR THE PURPOSE OF APPROVING INCREASES AND DECREASES TO THE FY 2023-2024 BUDGET BY MAKING AN INTRAFUND TRANSFER OF APPROPRIATIONS FOR THE CITY HALL AND POLICE STATION PROJECTS

Agenda Date: April 16th, 2024

Prepared by: Bruce St.Denis, City Manager

BACKGROUND

The FY 2023-2024 adopted budget included \$900,000 to continue the new City Hall and Police Station projects with the anticipation of bond proceeds being received in early Spring of 2024.

ANALYSIS/INFORMATION

Bond proceeds will be received later than originally expected. Additional funds are needed to bridge the gap from the budget amount to when bond proceeds are received. Staff requests a transfer of \$300,000 from the General Fund Contingency. This amount will be included in the reimbursement process once bond proceeds are received.

RECOMMENDATION

Approve Resolution 24-07

Suggestion Motion:

“I move to approve Resolution 24-xx for the Purpose of Approving Increases and Decreases to the FY 2023-2024 Budget by Making an Intrafund Transfer of Appropriations for the City Hall and Police Station Project.”

List of Attachments:

A Resolution 24-07

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF ADOPTING INCREASES TO THE) RESOLUTION NO. 24-07
 FYE 2023-2024 BUDGET BY INCREASING APPROPRIA-)
 TIONS FOR UNANTICIPATED REVENUES)

WHEREAS, the fiscal year 2023-2024 adopted general fund budget included \$900,000 for the purpose of funding the design for a new Cannon Beach city hall and police station; and

WHEREAS, this amount was deemed adequate to fund design costs until the receipt of bond proceeds that were anticipated in March or April of 2024; and

WHEREAS, bond proceeds will be received later than anticipated and will not be received until May or June of 2024; and

WHEREAS, it is anticipated that an additional \$300,000 will be needed to fund design payments for the remainder of the current fiscal year in lieu of bond proceeds; and

NOW, THEREFORE, BE IT RESOLVED that the City Commission of the City of Cannon Beach hereby adopts the following 2023-2024 budget changes for unanticipated revenues and expenses.

<u>General Fund</u>	<u>Adopted Budget</u>	<u>Changes</u>	<u>Amended Budget</u>
Total Resources	\$ 10,961,838		\$ 10,961,838
Executive	\$ 1,722,836	300,000	\$ 2,027,836
Community Development	779,477		779,477
Public Works	1,034,584		1,034,584
Public Safety	2,410,328		2,410,328
Emergency Management	551,685		551,685
Non Departmental - Materials and Services	877,001		877,001
Non Departmental -Transfers Out	1,906,382		1,906,382
Non Departmental - Contingency	737,091	(300,000)	437,091
Total Expenditures	<u>\$ 10,019,384</u>		<u>\$ 10,024,384</u>
Ending Fund Balance	<u>\$ 942,454</u>		<u>\$ 937,454</u>
Total Requirements	<u>\$ 10,961,838</u>		<u>\$ 10,961,838</u>

Passed by the Common Council of the City of Cannon Beach this 16th day of April, 2024, by the following roll call vote:

YEAS:

NAYS:

EXCUSED:

 Barb Knop, Mayor

Attest:

 Bruce St. Denis, City Manager



CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF RESOLUTION 24-08 FOR THE PURPOSE OF APPROVING INCREASES AND DECREASES TO THE FY 2023-2024 BUDGET BY MAKING AN INTRAFUND TRANSFER OF APPROPRIATIONS FOR THE RECYCLE BALER

Agenda Date: April 16, 2024

Prepared by: Karen La Bonte, Public Works Director

BACKGROUND

For the past three years Public Works has had to make expensive repairs to the baler located at the city Recycle depot. The city owns this baler that is just shy of 30 years old. We bale approximately 153 tons of cardboard a year, with summer being our peak timeframe for volume. This is the only cardboard baler the city has, and it's a critical part of the Recycling daily operations for city staff. The baler has been out of service several times, and having the baler down due to part failures or delays in getting repair service to the coast has a significant impact to the Recycling operations.

ANALYSIS/INFORMATION

City staff reached out to several companies who deal in this type of equipment to determine the cost to replace the baler versus continuing with the ongoing rising repair bills associated with repairs. Quotes ranged widely from \$24K-\$75K. City staff has identified a baler that is comparable to the one we have that can handle the current volume we receive at the depot. The total quote for this unit is \$ 29,400.00 (see ATTACHMENT A), which includes the rebate and removal of the old baler before installing the new replacement unit.

The supplier has the new baler unit currently in stock; therefore, the replacement of our failing baler could be accomplished before the busy summer season begins.

The current 2023-24 Recycling Fund has \$58,881.00 in contingency. City staff is asking for Council approval to use \$29,400.00 of the contingency funds to move forward with the purchase of this critical piece of equipment.

RECOMMENDATION

Approve the use of the current Recycling Fund contingency to purchase the replacement baler.

Suggestion Motion: "I move to approve Resolution 24-08 for the Purpose of Approving Increases and Decreases to the FY 2023-2024 Budget by Making an Intrafund Transfer of Appropriations for the Recycle Baler"

List of Attachments

- A Baler Quote
- B Resolution 24-08

**PCI WASTE AND RECYCLING EQUIPMENT**

9180 S.E. 74th Ave • Portland, OR 97206 • Toll Free: (888) 778-5550

Phone: (503) 777-5548 Fax: (503) 777-5590

April 8, 2024

Trevor Mount
City of Cannon Beach
163 E. Gower St.
Cannon Beach, OR 97110

Dear Trevor,

Thank you for this opportunity to present this proposal for the Max-Pak Model MP60HD-15 Heavy Duty 60" Vertical Down Stroke Baler.

The MP60HD-15 has proven itself the leader in today's baling industry. The MP60HD-15 comes with a 15 H.P. motor and provides 66,444 pounds of total pressure assuring you of a dense, heavy bale, each and every time. It is designed, engineered, and built to provide you with years of low-cost operation.

The MP60HD-15 bales a variety of products including cardboard, stretch film and various plastics.

The MP60HD-15 is fully UL listed, both mechanically and electrically. In addition, the MP60HD-15 is ANSI and WEMI certified as well as being OSHA compliant. The MP60HD-15 is fully manufactured and assembled in the U.S.A. It is easy to operate and ejects each bale automatically. One simply tosses the product into the baler, slides the feed door closed and pushes the start button. After this cycle the feed door is automatically opened and the baler shuts down awaiting the next load.

In addition, all MP60's now come with a touch screen controller standard. Provides ease of use with the intuitive display that is bi-lingual.

We look forward to providing you with the finest vertical baler available....the Max-Pak MP60-HD15. Please do not hesitate to contact me with any questions or comments you may have.

Sincerely,

Kevin Innes



PCI WASTE AND RECYCLING EQUIPMENT

9180 S.E. 74th Ave • Portland, OR 97206 • Toll Free: (888) 778-5550

Phone: (503) 777-5548 Fax: (503) 777-5590

City of Cannon Beach
163 E. Gower St.
Cannon Beach, OR

April 8, 2024

Attn: Trevor Mount

SPECIFICATIONS

MAX-PAK MODEL MP60HD-15 60" HEAVY-DUTY VERTICAL DOWNSTROKE BALER

PERFORMANCE

Bale Size 30"x 48"x 60"
Bale Volume 50 Cu. Ft.
Cycle Time..... 46.81 sec (No Load)

***OCC**

Bale Weight Up to 1150 Lbs.
Density Lbs./Cu. Ft. – Loose/Baled..... 2.5/23
Bales/Hr. Up to 2

***SHREDDED ONP**

Bale Weight Up to 1300 Lbs.
Density Lbs./Cu. Ft. – Loose/Baled..... 2.5/26
Bales/Hr. Up to 2

*Performance Rates, Bale Weights, and Bale Densities are subject to Moisture Content, Material Pre-Bale Densities, Feed Rates, and other Variables in Baling.

HYDRAULICS

Main Pumps Fixed Volume Vane, 12.5 GPM @ 1,750 RPM
System Pressure 2,350 psi
Main Cylinder 6" Bore 3.5" Rod 48" Stroke
Ram Face Pressure 40.91 psi
Overall Platen Force 66,445 lbs Standard
Oil Reservoir 30 Gal. Capacity
Hydraulic Manifold..... D05 Pattern, Internal Relief Valve Subplate Circuit

ELECTRICAL

Main Motor 15hp 208/230/460v 3ph
Enclosure..... NEMA 12-Rated
Controls..... UL/CUL Listed
Motor Type TEFC High Efficiency



PCI WASTE AND RECYCLING EQUIPMENT

9180 S.E. 74th Ave • Portland, OR 97206 • Toll Free: (888) 778-5550
Phone: (503) 777-5548 Fax: (503) 777-5590

City of Cannon Beach
163 E. Gower St.
Cannon Beach, OR

April 8, 2024

Attn: Trevor Mount

SPECIFICATIONS

MAX-PAK MODEL MP60HD-15 60" HEAVY-DUTY VERTICAL DOWNSTROKE BALER

STRUCTURAL

Overall Height.....143"
Overall Width.....78"
Overall Depth.....45"
Frame Design 10" Channel Side Rails 12" Channel Headers 3"x 3" Tube Steel Discharge Door
Supports Solid Charge Door – Cross broken
Feed Openings 27"x 60" Charge Dimensions 23"x 60"
Shipping Weight5,000 Lbs.

FEATURES

U.L. Listed Controls3-6" Retainer Dogs Front and Back
Bale Height AdjustableSoft Shift, Lock Shock Hydraulic Circuit
Factory Wired for Easy Installation.....Safety Interlock Circuit on Bale
Door and Safety Gate
Counter Balanced Feed Door Easy to Open Dual Chain Semi-Automatic Bale
Ejections System

Baler is 100% U.L. Listed

Baler not water proof or weather proof. No placement in direct weather



PCI WASTE AND RECYCLING EQUIPMENT

9180 S.E. 74th Ave • Portland, OR 97206 • Toll Free: (888) 778-5550
Phone: (503) 777-5548 Fax: (503) 777-5590

City of Cannon Beach
163 E. Gower St.
Cannon Beach, OR

April 8, 2024

Attn: Trevor Mount

PRICING

**ONE (1) MAX-PAK MODEL MP60HD-15,
60" HEAVY-DUTY VERTICAL DOWNSTROKE BALER**
(per enclosed specifications)

INCLUDED IN THE SCOPE OF WORK. THE INSTALLATION OF THE NEW MAX-PAK MP60HD-15 VERTICAL BALER, AND THE REMOVAL AND HAUL AWAY THE EXISTING BALER SYSTEM. (Current baler: Harmony model 1060XDRC) Details of removal is on Page 9. INCLUDING THE SCRAP VALUE CREDIT OF \$1,100.00

TOTAL PACKAGE PRICE: Removal and Haul-Away of Current Existing Baler System Delivered, Installation and Start- Up Training of new MP60HD-15. Shipping and Forklift Rental. Included in the total package is the scrap value credit of \$1,100.00

\$29,400.00

Prices are subject to change prior to ordering. 90 % deposit with order, balance net 30 days from delivery. Electrical and connects by others and electrician must be on site for install. Permits, inspections and certifications, if required, are by others. Any extraordinary install circumstances may result in additional charges. Baler must be installed on concrete pad. Concrete provided by other. Prices do not include any applicable taxes. Customer responsible for any taxes due. Including the Oregon CAT Recovery fee. If payment is made with credit card, a 5% surcharge will apply.

Baler is not weather proof, not to be placed in direct weather.

The enclosed proposal consisting of 9 pages including attachment "A" (Additional terms and conditions) is hereby ACCEPTED.

PCI Waste and Recycling Equipment

Kevin Innes

City of Cannon Beach, Oregon
Authorized Signature

By: _____

Title: _____

Date: _____



PCI WASTE AND RECYCLING EQUIPMENT

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Phone: (503) 777-5548 Fax: (503) 777-5590

City of Cannon Beach
163 E. Gower St.
Cannon Beach, OR

April 3, 2024

Attn: Trevor Mount

ADDITIONAL TERMS AND CONDITIONS

(ATTACHMENT "A")

1. **Waiver of Consequential Damages.** Buyer and PCI hereby waive claims against each other for consequential damages arising out of or relating to this contract, including but not limited to damages for loss of use, income, profit, business loss of management or worker productivity.
2. **Limited of Warranty.** PCI shall use its best efforts to obtain from the manufacturer of the equipment sold hereunder the repair or replacement of parts that may prove to be defective in material or workmanship and are covered by the terms of the manufacturer's warranty, copies of which shall be furnished to Buyer upon its request. Other than such manufacturer's warranties, this equipment is sold without warranties of any kind. **THIS DISCLAIMER OF WARRANTIES BY PCI IS ALSO OF ALL IMPLIED WARRANTIES ON SAID EQUIPMENT, INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
3. **Attorney Fees.** In the event legal action is Instituted arising out of or relating to this agreement, the prevailing party in such action shall be entitled to an award of attorneys fees, including any appeal.
4. **Governing Law and Venue.** The parties agree that this proposal shall be governed by and construed in accordance with the laws of the State of Oregon, and that any legal suit for enforcement of its terms or arising out of it shall have a venue of Clackamas County, Oregon.
5. **Entire Agreement.** This proposal, upon acceptance by Buyer, constitutes the entire agreement between PCI and Buyer and supersedes any and all understandings or agreements between such parties, whether verbal or in writing.
6. **Waiver.** No waiver, alteration or modifications of the provisions set forth above and in this Proposal by PCI shall be binding upon it unless expressly agreed to in a writing signed by an authorized representative of PCI.



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New Vertical Baler Standard Feature Announcement

Bi-Lingual - Touch Screen Operation!

- Features:
 - All functionality is maintained from the previous models - AND, additional functionality is included!
 - Bi-Lingual operation that is selectable at power-up. Operators can select English or Spanish upon turning on the power via the disconnect on the Control Panel.
 - Intuitive displays to help "guide" operators.
 - Simple operation with user feedback notifications for user errors and/or malfunctions.
 - Enhanced interlock monitoring to detect sensor failure and/or tampering.
 - Integral bale complete counter.
 - Integral run-time monitor.
 - Does NOT increase the price of the machine.

Power Up Screen



Main Screen - English



Bale Complete Screen



Main Screen - Spanish



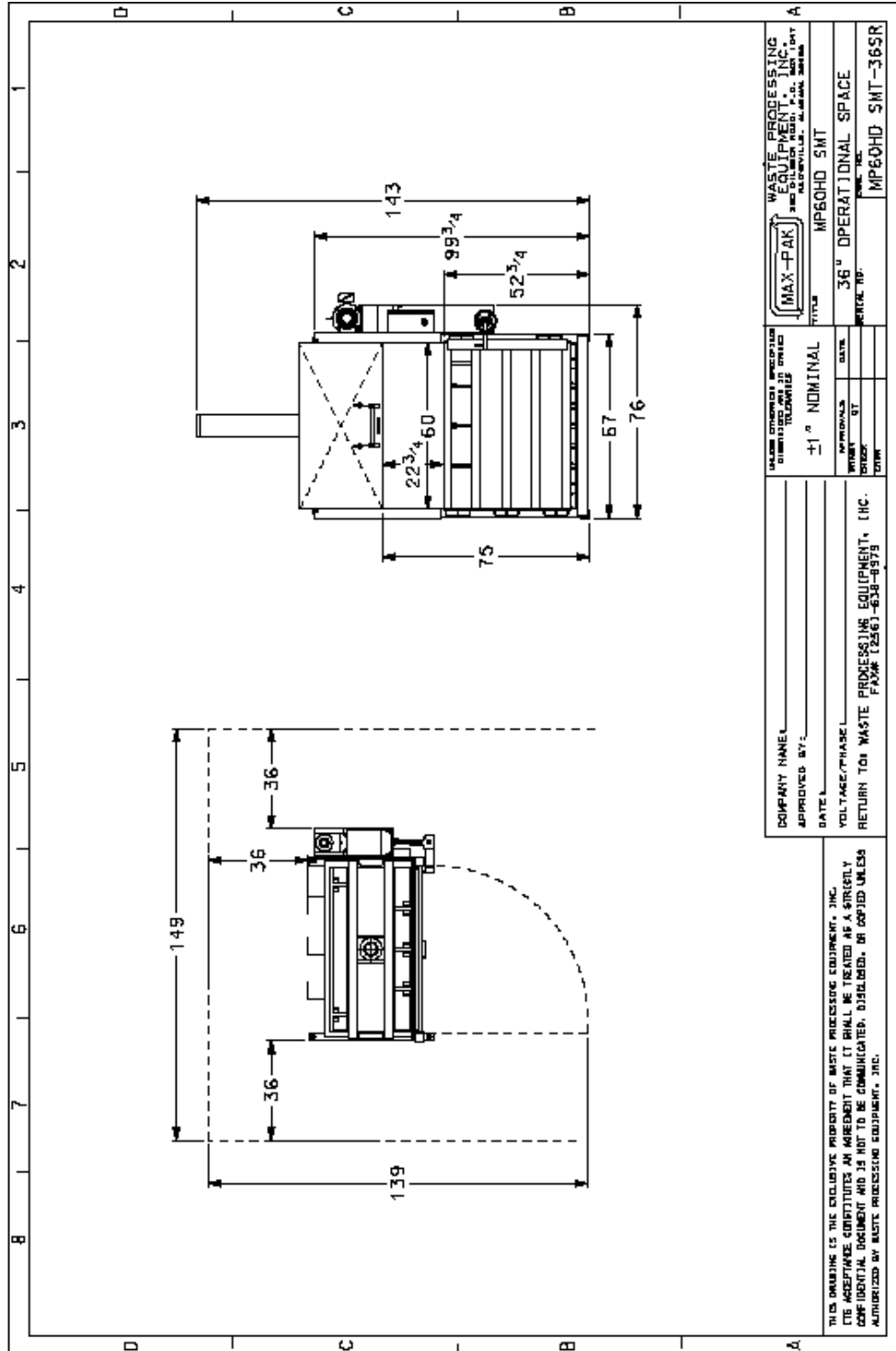
User Feedback - Samples





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Phone: (503) 777-5548 Fax: (503) 777-5590

April 8, 2024

Removal of the Existing Baler for Cardboard at the Recycling Center. City of Cannon Beach, OR

This proposal of removal of the existing Cardboard Baler system in conjunction with the installation of the New Max Pak model MP60HD-15, Heavy Duty Vertical Baler.

Current baler: Harmony model 1060XDRC Serial Number 60108XDRC

Scope of work includes: The dismantling of the existing equipment to prepare for shipping. Preparation of the equipment for recycling. Loading the equipment on the truck.

Included is the Freight to haul away the old equipment and rental of a 15K forklift.

The removal of the existing and installation of the new Vertical Baler, based on two days on site.

This proposal is based on the removal of existing equipment with the installation of the new Max-Pak vertical baler, model MP60HD-15 as quoted April 3, 2024. Terms and Conditions same as the April 3, 2024 new baler quote.

Total package based on the above scope of work.\$6,600.00

Scrap value of the existing equipment. **Credit** [\$1,100.00]

Total\$5,500.00

THIS SECTION OF THE PROPOSAL IS INCLUDED IN THE TOTAL PACKAGE PRICE LISTED ON PAGE 4.

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF APPROVING)
 INCREASES AND DECREASES TO THE FY)
 2023-2024 BUDGET BY MAKING AN)
 INTRAFUND TRANSFER OF)
 APPROPRIATIONS)

RESOLUTION NO. 24-08

WHEREAS, the baler at the City recycle center is approximately 30 years old and requires frequent and costly repairs; and

WHEREAS, the baler is a critical piece of equipment for the recycling program, recycling staff, and the efficient delivery of recycling services to the community; and

WHEREAS, the recycling fund fiscal year ending June 30, 2024 budget includes a \$58,881 contingency that has not been accessed; and

WHEREAS, the public works department has sourced a new (replacement) baler, comparable in size and capability to the current baler, which costs \$29,400 including installation and removal of the current baler; and

WHEREAS, the public works director is requesting that City Council approve the use of \$29,400 of the current year recycling budget contingency to purchase a new baler.

NOW, THEREFORE, BE IT RESOLVED, the Common Council of the City of Cannon Beach hereby authorizes the transfer of \$29,400 of the fiscal year end June 30, 2024 recycling fund contingency budget to the recycling fund capital expenditure budget, with funds utilized exclusively for purchasing a new baler for the City of Cannon Beach Recycling Center.

<u>Recycling Fund</u>	<u>Adopted Budget</u>	<u>Changes</u>	<u>Amended Budget</u>
Recycling Program	\$ 294,407	29,400	\$ 323,807
Contingency	58,881	(29,400)	29,481
Total Expenditures	<u>\$ 353,288</u>	<u>0</u>	<u>\$ 353,288</u>

PASSED by the Common Council of the City of Cannon Beach this 16th day of April, 2024 by the following roll call vote:

YEAS:

NAYS:

EXCUSED:

 Barb Knop, Mayor

Attest:

 Bruce St. Denis, City Manager

Minutes of the
CANNON BEACH CITY COUNCIL
Tuesday, March 5, 2024
Council Chambers

Present: Mayor Barb Knop, Council President Nancy McCarthy, Councilors Brandon Ogilvie, Gary Hayes and Lisa Kerr

Excused:

Staff: City Manager Bruce St. Denis, IT Director Rusty Barrett, Recorder Jennifer Barrett and Chief of Police Jason Schermerhorn

Other:

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Knop called the meeting to order at 6:01 p.m.

Knop noted agenda item 4 the Sunset Empire Transportation District Executive Direction Presentation has been postponed and will be scheduled to a future meeting.

Motion: Ogilvie moved to approve the agenda as amended; Hayes seconded the motion.

Vote: McCarthy, Ogilvie, Kerr, Hayes and Knop voted AYE: the vote was 5:0 and the motion carried. The agenda was approved.

PUBLIC COMMENT

Knop called for public comment, reminding everyone to be kind and respectful and keep it under 3 minutes.

- Marc Ward 36286 Hwy 26 Seaside – Read letter submitted earlier in the day. A copy has been included in the packet. The letter was also submitted to the budget committee for their March 19th packet.
- Ed Johnson 929 Trosper Rd SW, Tumwater WA, President of Board Sea Turtles Forever, spoke about the OSU microplastic project and questioned why considering removing the budget line item, spoke in favor of keeping the line item and not going to a community grant.

INTRODUCTION

(1) Introduce New City Staff

St. Denis introduced Bara Mbathie the new receptionist/court clerk.

PROCLAMATION

(2) Proclamation 24-01 for the Purpose of Proclaiming the Month of March 2024 as Red Cross Month

St. Denis read the staff report. Jenée Pearce-Mushen via Zoom thanked Council for doing the proclamation noting the Red Cross provides services such as free smoke alarms.

Motion: Ogilvie moved to adopt Proclamation 24-01, declaring March 2024 Red Cross Month in Cannon Beach; Kerr seconded the motion.

Vote: McCarthy, Ogilvie, Kerr, Hayes and Knop voted AYE: the vote was 5:0 and the motion carried.

Ogilvie read Proclamation 24-01.

ACTION ITEMS

(3) Appointment of City Committee/Board/Commission

TOURISM AND ARTS COMMISSION (TAC): two (2) vacancies to fill one four-year term beginning immediately and one beginning April 1, 2024

Applicant: Greg Swedenborg

Swedenborg Thanked the council for their consideration, gave a history of his time on TAC, and shared his thoughts on items that could be funded through this source.

Motion: Hayes moved to appoint Greg Swedenborg to the Tourism and Arts Commission beginning immediately; Kerr seconded the motion.

Vote: McCarthy, Ogilvie, Kerr, Hayes and Knop voted AYE: the vote was 5:0 and the motion carried.

OTHER DISCUSSION ITEMS

(5) Tree Focus Group Presentation with Design Review Board and Parks Committee

St. Denis introduced the item. Bates thanked the working group giving an overview of the citizen group. Bates noted the tree code served its purpose but no longer does, giving examples. Bates gave a PowerPoint presentation; a copy is included in the record. Bates reviewed the proposal in the presentation. Kerr added the group met with the different departments including code enforcement, public works and planning to make sure anything suggested wouldn't be too burdensome or impossible to enforce. Jan Siebert-Wahrmund noted the Parks Committee was supportive and helpful. Stacy Benefield added land use attorney Bill Kabeiseman reviewed the code as well.

Bates said the text they provided is what is being proposed and will be revised based on comments received. A final project will be brought back for conidiation.

Knop appreciated all the time spent and that city departments and legal were included. Hayes added there is some good stuff here. Disused the process for a change of set back and how staff approval would occur. Discussed the impact of the proposed tree revisions on affordable housing. Discussed options to benefit affordable housing. Discussed ADUs. Bates answered the Council's questions. Discussed fines, and uses for fines collected. Discussed the appeal process. Discussed the timeline with going through planning commission process. Hayes noted it would be nice to hear from staff. Bates said he has what needs to be worked on. In response to Hayes' question did Marcy see this, Kerr replied she did not and has nothing to do with this. Tim Ramey spoke saying he is not on the working group, but on the Design Review Board and appreciates what's been done. Bates will present an update at a future meeting.

INFORMATIONAL/OTHER DISCUSSION ITEMS

(8) Monthly Status Report

There was none.

(9) Mayor Communications

Knop reported she went to Pacific Ridge Elementary with the Mayor from Gearhart and Seaside to speak with 4th graders about a poster contest where they make posters of what they would do if they were Mayor. Knop noted it was lots of fun and will involve the Cannon Beach Academy 4th graders.

(10) Councilor Communications

There was none.

(11) Good of the Order

McCarthy said Council did not make a decision to remove the line item for plastic removal from budget, Knop agreed. Kerr noted that they are feeling down, it's a technicality, and they viewed it as removed. Kerr added she let them know they are allowed to come and listen at the budget meeting. Knop added after listening to Swedenborg comments they may be able to use TLT funds. Hayes replied it was neither marketing or real improved property, so they would need to make a case for marketing. Knop suggested a series of events, a discussion ensued.

St. Denis noted there is a preliminary budget meeting on Thursday that will not get involved with specific funding amounts.

Tim Ramey, PO Box 429 spoke about a photo he sent Karen La Bonte of the foot of Larch where street was about to wash away, a discussion ensued.

ADJOURNMENT

The meeting was adjourned at 7:28 p.m.

ATTEST:

Jennifer Barrett, Recorder

Barb Knop, Mayor

Minutes of the
CANNON BEACH CITY COUNCIL WORK SESSION
Tuesday, March 6, 2024
Council Chambers

Present: Mayor Barb Knop, Council President Nancy McCarthy, Councilors Brandon Ogilvie and Gary Hayes and Lisa Kerr

Excused:

Staff: City Manager Bruce St. Denis, IT Director Rusty Barrett, Recorder Jennifer Barrett and Chief of Police Jason Schermerhorn

Other: Dustin Johnson, Jennifer Beattie and Mya Paluch from CIDA Architects. Ben Carlson from Bremik Construction

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Knop called the meeting to order at 6:00 p.m.

Motion: Ogilvie moved to approve the agenda as amended; Hayes seconded the motion.

Vote: McCarthy, Ogilvie, Kerr, Hayes and Knop voted AYE: the vote was 5:0 and the motion carried. The agenda was approved.

Knop apologizes letting a citizens speak during good of the order at the previous night's meeting. Knop reminded everyone that public comment is at the beginning of the meeting.

PUBLIC COMMENT

Knop called for public comment, adding remember to be kind and respectful and under 3 minutes.

There was none.

DISCUSSION

(1) Cannon Beach Elementary Budget Discussion and Design Development Review

St. Denis introduced Dustin Johnson from CIDA and Ben Carlson Bremik adding this discussion is almost a precursor to meeting on the 19th. St. Denis noted the discussion will be about the design development and costs.

Johnson said he will present the design development plans as they were issued towards the end of last year and will note the plans with more pertinent information or changes from schematic design to design development.

Johnson gave an overview of the process moving forward, noting he will come back next week to approve site modifications from the DRB process, then will meet on the 19th to discuss the comments regarding the project together. Johnson noted at he end of the 19th he is looking for approval to move into the construction document phase to maintain the schedule being presented. Knop clarified they heard from two citizens, Sam and Paul, adding they we will be responding to the questions received from them.

Johnson presented the design development plans. Johnson noted the thunderbird garden and site layout will be approved through the formal hearing next week. Johnson added this was a snapshot in time from the end of

October, and the set that the budget has been priced on.

Ben Carlson gave an overview of the process, then reviewed the budget estimate from the package. Carlson noted the time frame for the items as well. Discussed the plan to reuse a modular from the temp housing of staff to the food bank. Carlson answered Council's questions. Johnson walked through the soft cost pieces. Discussed the archaeological report and how digging would impact the site. Carlson noted it is not uncommon to have an inadvertent discovery plan, which are procedures on what to do if anything is encountered. Carlson added this is something they've kept in mind which doing the project, giving overview, a discussion ensued.

Johnson gave an overview of the schedule, noting the construction time is estimated to be 11 months.

Johnson and Carlson answered Council's questions. Paluch gave an overview of the multi-function flooring planned for the gym space, a discussion ensued.

In response to Ogilvie's question you are not asking for any decision or direction tonight, Johnson replied that is correct, added they want to see the process play out after responding to the comments received from Sam and Paul and see what action from there council would like to take committing to just moving full steam ahead. Johnson added at some point he will ask to approval to move on to the construction drawing phase, a discussion ensued. Discussed the plaza pavers.

(2) Good of the Order

Kerr noted she wrote to Bill Kabeiseman asking if the state needed to be involved for the tree ordinance, adding Bill said no as it's a municipality not a state item, a discussion ensued.

Knop thanked everyone in attendance.

ADJORNMENT

The meeting was adjourned at 7:28 p.m.

ATTEST:

Jennifer Barrett, Recorder

Barb Knop, Mayor

Minutes of the
CANNON BEACH CITY COUNCIL
SPECIAL MEETING AND WORK SESSION
Tuesday, March 12, 2024
Council Chambers

Present: Mayor Barb Knop, Council President Nancy McCarthy, Councilors Brandon Ogilvie, and Lisa Kerr

Excused: Gary Hayes

Staff: City Manager Bruce St. Denis, IT Director Rusty Barrett, Recorder Jennifer Barrett, Chief of Police Jason Schermerhorn and Public Works Director Karen La Bonte

Other: Legal Counsel Carrie Richter

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Knop called the meeting to order at 6:00 p.m.

Motion: Ogilvie moved to approve the agenda as amended; Kerr seconded the motion.

Vote: McCarthy, Ogilvie, Kerr and Knop voted AYE: the vote was 4:0 and the motion carried. The agenda was approved.

Knop asked for moment of silence for Dave Rouse who passed away yesterday.

PUBLIC COMMENT

Knop called for public comment, adding we are following our new policy and rules, remember to be kind and respectful and under 3 minutes.

There was none.

INTRODUCTION

(1) Introduction and Swear in of Keaton Walde

Schermerhorn introduced the new Police Officer, giving an overview of his resume. Walde read the Oath of Office, Mayor Knop swore in Officer Walde.

PUBLIC HEARING

(2) Public Hearing for Landscape Review of the Rejuvenation of the Cannon Beach Elementary School Project and Ne'Cus Park

Knop stated this is a hearing to consider revision to the landscape plan for the Rejuvenation of the Cannon Beach Elementary School Project and Ne'Cus Park.

The appeal will be reviewed against the conditions listed in the adopted Findings of Fact and Conclusion of Law for APP 23-07 and for compliance with the landscape design evaluation criteria set forth in Cannon Beach Municipal Code 17.14.100.

During a work session on February 20th, the Council reviewed the same revised landscape plan that is before the

Council tonight for consideration. The presentation and Council's discussion of this matter on February 20 was limited to project scheduling as well as fiscal impacts and did not include any consideration of whether the revisions satisfied the Landscape Design Evaluation Criteria set forth in CBMC 17.44.100. Although it is not relevant, the City will include a copy of the recording of the February 20th work session in the record for this proceeding. If any councilor has concerns about their ability to set aside any considerations for this project that are not related to the question of compliance with the design review criteria on issue for tonight's consideration, now would be the time to raise those concerns.

Knop opened the public hearing.

Knop asked does anyone object to the jurisdiction of the City Council to hear this appeal at this time? Does any Councilor believe he or she has a personal bias to declare? Does any Councilor believe he or she has a conflict of interest? In addition to the February 20 work session, has any Councilor had any ex parte contacts or made a site visit? Site visits were declared.

Knop asked is there any additional correspondence?
There was none.

Knop requested the staff report.
St. Denis read the staff report.

Knop stated the pertinent criteria to be considered by the City Council are identified in the staff reports; Testimony, arguments and evidence must be directed toward those criteria or other criteria in the Comprehensive Plan or Municipal Code which the person testifying believes to apply to the decision; Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue. In addition, failure of the applicant to raise constitutional or other issues related to proposed conditions of approval will preclude an action for damages in circuit court; Persons who testify shall first receive recognition from the Mayor, state their full name and mailing address, and if appearing in a representative capacity, identify whom they represent.

Knop asked is there a presentation by the applicant?

St. Denis introduced CIDA Architect Dustin Johnson. Johnson congratulated Officer Walde. Johnson noted Joyce Jackson is online and will speak to the planting. Johnson presented the landscaping plan, noting these are the same plans from February. Johnson noted the green on the plants are all native grass as opposed to the manicured non-native grass that you see in NeCus' park. Johnson noted the accessibility portions, adding the green trees are shore pines. Johnson gave an overview of the story circle. Johnson noted the gray paths are compacted gravel, which has some upkeep to it, but that can be compacted in a way to be ADA compliant, which will give people access to the components.

Joyce Jackson Landscape Architect, reviewed the plants in the plan, noting there are a few plants that are not native to the Pacific Northwest but have been adapted to the area and are surviving quite well. Jackson asked if there were any questions? Council did not have any.

Knop asked are there presentations by proponents?

Jan Siebert-Wahrmund PO Box 778. Siebert-Wahrmund said this design is simpler and she would even be happy with it even being simpler, adding it is an improvement and the elk may help with simplifying it in the future. Siebert-Wahrmund is grateful to think they are not cutting any more trees, the cherry trees are coming down and she is sad, but understand why. Siebert-Wahrmund thanked them for the shore pines being planted adding it will be beautiful and will do well. Siebert-Wahrmund thanked for the SE plaza, the less hard space, asking for more greenery if possible, as it is more welcoming. On riparian area on creek by bridge is a large Laurel she asked for consideration to leave the is possible. Siebert-Wahrmund noted she saved it one time 10 years ago and hope to save

it again.

Knop asked are there presentations by opponents?

There was one.

Knop asked would the applicant like to provide any rebuttal to the testimony in opposition?

There was none.

Knop asked is there a staff response?

No response.

Knop asked does the Council have any further questions for any of the participants in this proceeding?

McCarthy noted she is interested in Siebert-Wahrmund suggestion for more greenery in the SE Plaza, asking if there was a reason there was not more. Johnson replied they always considered the SE Plaza to be a space that accessed the NeCus' site. Johnson added when people walk by it, they see people congregate. Johnson feels it could accommodate more greenery. McCarthy said more greenery would be nice.

In response to McCarthy's question where the trail meets hardscape in the back is it at grade or is there a lip to it, is there a step to the hardscape, Johnson replied the intent to be at grade, however with the materials it will need to be maintained. In response to McCarthy's question are all pavers' blocks, can they be tripped on, Johnson replied with the system used for creating the critical subbase layer before the leveling sand, noting the steps taken, it's nearly as hard as concrete and when pavers are in place there is nothing in this climate to cause those to move. Johnson added outside the coast there is the to worry about freeze thaw, but here with a strong subbase they should see very little over the decades.

In response to Kerr's question what about the Laurel Siebert-Wahrmund spoke about, Jackson replied she does not have a problem keeping the Laurel, adding she was trying to keep everything native and a tree in that corner. Jackson added if this is something of concern she can keep it as it is mature and holding a lot of soil in place, it wouldn't hurt to keep other than the fact that it's not native and broken our native rule, it could possibility in the right-of-way.

Knop added the tree has been there so long it's native. Jackson replied we can call it adaptive native adding there is a fair amount of ground cover, and the cover south of existing tree is low ground cover and is in an area we are trying to have murals. Jackson added other low shrubs can be added, noting the height of the ground cover. Jackson added if looking for the concrete to go away, a good area is east of the pull off, adding it would need to be low to maintain accessibility. Jackson is not sure if she could add an additional tree closer to the intersection, adding she would need to investigate if that would be a problem with a view of the intersection.

In response to Knop's question do you foresee issues with moving the basalt fixture, Johnson replied there are no issues with physically moving it and from the tribal perspective they'd prefer it to be in area where it forces people to see it and learn about it.

In response to Knop's question how big is open are pavilion, Johnson replied 12ft by 24ft adding in previous scheme it was quite a bit larger. A discussion ensued regarding the height of the circle and the visibility.

Knop closed the public hearing.

Kerr feels this is and likes the improvements, changes, and is happy the tribe was a part of the decision, and that they are in favor of the design. Knop agreed.

Motion: Ogilvie moved to approve the Landscape Plan for the Rejuvenation of the Cannon Beach

Elementary School Project and Ne'Cus Park with the noted changes made this evening, with extra greenery and saving the laurel tree, McCarthy seconded.

Vote: McCarthy, Ogilvie, Kerr and Knop voted AYE: the vote was 4:0 and the motion passed unanimously.

Knop thanked Johnson and Jackson.

ACTION ITEMS

- (3) **Consideration of the Minutes of the**
- | | |
|--------------------|---|
| February 6 | Council Meeting |
| February 7 | Council Work Session TSP & Parking |
| February 13 | Council Work Session/Special Meeting |
| February 20 | Council Work Session/Special Meeting |
| February 28 | Work Session CH/PD |
| February 29 | Work Session Code Rewrite |

J Barrett noted an error on the date for February 28th minutes, adding it has been revised.

Motion: Ogilvie moved to approve the minutes of February 6 as amended, 7, 13 as amended, 20, 28 as amended & 29; McCarthy seconded.

Vote: McCarthy, Ogilvie, Kerr and Knop voted AYE: the vote was 4:0 and the motion passed unanimously.

CLOSE SPECIAL MEETING AND OPEN WORK SESSION

DISCUSSIONS

(4) **Annual Review of SDC's as Recommended by Adopted Methodology**

La Bonte read the staff report. La Bonte noted when Doug Gabbard from FCS did the presentation last year there was a lot of data and several models looked at. La Bonte added as a reminder SDC's are only for new construction.

Kerr noted Council received a letter about the parks SDC's from Randy Neal, and didn't see how NeCus' is for people who live here now and in the future as it is not just for tourist. Kerr added she didn't see how that would make sense to take the parks portion out. La Bonte added she sent the questions to Doug at FCS to give his opinion to share with you, wanted to see his interpretation on Randy's input. La Bonte will follow up and give Council the information. La Bonte noted we do not need to make decision tonight, this will go to the next meeting. McCarthy asked La Bonte to send Randy a note to let him know his letter was forwarded to the consultant. Knopp agreed it was a good idea to hear from expert. Kerr added she thinks we should raise the SDC by the inflationary index listed. Ogilvie agreed. La Bonte will bring the Resolution to the April 2nd meeting along with Doug's answer to Randy's question.

(5) **Good of the Order**

Kerr noted in the minutes twice she asked for an update on Mr. Sellers. St. Denis replied he will follow up adding it's become more complicated as it is a dispute between two neighbors.

Ogilvie noted the next meeting is an executive session on March 19th at 4:30 pm, then Council meeting at 6pm.

Knop noted she met with Ashley Driscoll and they are working on code of conduct for committee, commissions and council, and will be presented to everyone to make sure what we do reflects the good values in Cannon Beach.

Knop noted Senator Wyden will be in Astoria at 1pm on Sunday at Astoria High school for a town meeting.

Knop noted Saturday March 16th trail cleaning.

McCarthy noted Coffee with Councilors on Monday at 10 am.

Kerr asked if the code of conduct is conduct during meeting or carrying on duties as a commissioner or code while you are not carrying on your duties and not acting as role. Knop replied the majority is while they are at a meeting or acting on behalf, but there will be a little on acting outside of, a discussion ensued. McCarthy added Council had a discussion are we are now carrying on with what we discussed. In response to Kerr's question is Council having a meeting with people involved with sticker, Knop replied Ashley Driscoll suggestion was for her and the Council President meet with them individually.

Ogilvie noted the next regional task force housing meeting is on the 27th at the Bob Chisholm Community Center. Ogilvie will forward the information to all Councilors. Kerr added it is a small room and there is an option for Zoom.

ADJORNMENT

The meeting was adjourned at 7:18 p.m.

ATTEST:

Jennifer Barrett, Recorder

Barb Knop, Mayor

Minutes of the
CANNON BEACH CITY COUNCIL WORK SESSION
Tuesday, March 19, 2024
Council Chambers

Present: Mayor Barb Knop, Council President Nancy McCarthy, Councilors Brandon Ogilvie, Gary Hayes and Lisa Kerr

Excused:

Staff: City Manager Bruce St. Denis, Assistant Public Works Director Trevor Mount, Administrative Assistant Tessa Pfund, Chief of Police Jason Schermerhorn

Other: CIDA Architect Dustin Johnson, Bremik Project Manager David Brooking and Bremik Director of Preconstruction Ben Carlson

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Knop called the meeting to order at 6:00 p.m.

Motion: Ogilvie moved to approve the agenda; Hayes seconded the motion.

Vote: McCarthy, Ogilvie, Kerr, Hayes and Knop voted AYE: the vote was 5:0 and the motion carried. The agenda was approved.

PUBLIC COMMENT

Knop called for public comment, adding we are following our new policy and rules, remember to be kind and respectful and under three minutes.

There were no public comments.

DISCUSSIONS

(1) Addressing Concerns About the Cannon Beach Elementary School Rejuvenation Project

St. Denis read the staff report and introduced Johnson, Brookings and Carlson. The goal was to address the thirty pertinent comments shared to the council.

Justin Johnson, CIDA Architect

Wanted to present the questions as they were understood, and then address the question. He looked for the council for guidance as to how to proceed. He shared that all members of the panel would be available to answer questions as necessary.

Dave Brookings, Bremik Project Manager

Addressed questions submitted by Dueber one through nine and provided their response. Questions and outlined responses are included in the meeting's packet, listed as "letter".

Johnson took over to respond to questions ten through eleven. He proceeded to answer Sam's questions one through eight. Questions and outlined responses are found in the packet, labelled "Sam".

Ben Carlson, Bremik Director of Preconstruction

Addressed questions nine through sixteen from Sam. Questions and outlined responses are found in the packet, labelled "Sam". Carlson then handed the floor back to the Council.

Ogilvie posed questions regarding the gym flooring. McCarthy asked for further information relating to question number two from "letter". Carlson answered her question. Hayes asked questions clarifying the response to question number one from "letter".

PUBLIC COMMENT

Knop called for public comment on the item at hand.

Tim Ramey, PO Box 429

Thanked Paul and Sam for their work in producing these letters. He hopes we'll get through this with satisfactory closure. We've been through many meetings on this topic, with hundreds of questions. It's time to wrap this up. There's value in reviewing the engineering, yet some of these questions are so granular that it's odd people assume the architects and engineers have not considered the questions posed. He recommended the council reconsider the screens, as that is not something a person could bring in themselves. It is a permanent fixture.

Sam Steidel, PO Box 501

Would like everyone to understand that the process wasn't done well. He acknowledged his part in that process early on. He hopes we'll do a better job on future projects, and that's why these questions were asked. They needed to be asked so everyone can have a better understanding of what we need to know now and in the future. He hoped they would have a chance for more open discussion on the design and where it was going, but that isn't happening as the decision has already been made.

Tom Langman, PO Box 865

Wanted to know what the plan was for the \$100,000 acoustics for the gym, as it might need more for a musical presentation.

Johnson offered a response to that comment. Right now, that is their allowance, but they won't really know the cost until they reach that step in the development of the site. Mayor Knop asked clarifying questions on the cost for our current options.

Deb Atiyeh, PO Box 426

Honored to be present to represent the tribe. She shared a brief history of the tribe and their culture. This entire project has been in the work for several years, and the public outreach began in 2022. This is the 34th meeting to discuss this project. The architects and builders are highly qualified and skilled, she trusts their work. The council has been patient while listening to everyone's concerns, but enough is enough. Every month's delay costs the City another \$50,000. The four-month delay with the DRB and residents' concerns for how we can cut costs has actually cost the project roughly \$200,000. She asked that we not compromise on what we will later regret. This can be so special and bring a community together. Some of us have been here for a long time, but none of us have been here as long as the Clatsop Nehalem tribes. Please stop chipping away at the soul of this project.

Mayor Knop gave a long pause asking if anyone wished to speak.

Jan Siebert-Wahrmund, PO Box 778

She's been involved in this project since the beginning. She knows that everyone has tried hard to make this the best we can, but she wishes we could simplify this project. She wishes we could come together more than we are at this moment. She supports the tribe and the people who live here yet feels a sadness and is disconcerted. She knows everyone has tried in their own way to make this the best.

Andrew Tonry did not announce himself but stood near the podium to echo Siebert-Wahrmund.

Mayor Knop gave another long pause for those who wished to make a comment. No one came forward on Zoom or in person. Knop closed the floor to public comment.

McCarthy asked for a breakdown of the \$800,000 cost reduction. Johnson answered her question.

Kerr said having at least one screen is important. Educational programs, memorial services, and such might meet there and need a screen. She'd like to see a screen worked into the plans. The panel offered to bring in a cost assessment for screen options.

Hayes commented that this has revealed some real cost reductive options. Overall, he was very appreciative of their work. Conversation followed relating to the architectural designs, especially in relation to the north gym wall. Hayes addressed the "elephant in the room" which included the restrooms and kitchen. Questions were posed as to the number of restrooms and accessibility. From the gallery Tonry said we could solve this problem by having gender neutral bathrooms. Johnson responded to this comment and added it would come down to cost as you end up privatizing each stall and building more walls, doors, and frames. Conversation followed regarding the cost of unisex bathrooms. Mayor Knop asked this item remain on the list for things to discuss in the future.

Steidel came back to the podium to discuss the north gym wall. He said this council never had options for how this could be approached. Kerr said they did discuss this item before, with Steidel, in this room. Steidel refuted her comment. Hayes asked how many options they had previously reviewed. Johnson said close to half a dozen. Steidel made a comment from the gallery. Someone pointed out he was out of order. Mayor Knop brought the room back to order.

(2) Good of the Order

Kerr posed a question regarding a tree on the Seller's property.

Paul Dueber, PO Box 549

He apologized and thought they would go through all the questions. He wanted the council to know he sincerely appreciated listening to what they had to say. All his questions were answered, and he appreciates them. He doesn't necessarily agree with them, but he is thankful for their time.

ADJORNMENT

The meeting was adjourned at 7:10 p.m.

ATTEST:

Tessa Pfund, Administrative Assistant

Barb Knop, Mayor

Minutes of the
CANNON BEACH CITY COUNCIL WORK SESSION
Wednesday, March 27, 2024
Council Chambers

Present: Mayor Barb Knop, Council President Nancy McCarthy, Councilors Gary Hayes and Lisa Kerr in person. Brandon Ogilvie via Zoom

Planning Commissioners: Mike Bates and Anna Moritz in person. Erik Ostrander, Les Sinclair, Clay Newton and Aaron Matusick via Zoom.

Design Review Board: Tim Ramey in person. Harvey Claussen, Michelle Valigura and Dave Doering via Zoom.

Excused: Design Review Board Anita Dueber

Staff: City Manager Bruce St. Denis, Recorder Jennifer Barrett, Community Development Director Steve Sokolowski and City Planner Robert St. Clair

Others: Urbsworks representative Marcy McInelly in person

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Knop called the meeting to order at 6:01 p.m.

Motion: Hayes moved to approve the agenda; Kerr seconded the motion.

Vote: McCarthy, Ogilvie, Kerr, Hayes and Knop voted AYE; the vote was 5:0 and the motion carried. The agenda was approved.

PUBLIC COMMENT

Keep noted to keep it under three minutes, be kind and respectful.

- Jan Siebert-Wahrmund PO Box 778 thanked Bruce St. Denis and Karen La Bonte for giving an update on the water break tonight.

Knop thanked staff for the hours and effort put in dealing with the water break.

La Bonte noted she is blessed to have an amazing crew, adding the leak was found quickly. La Bonte added the boil water notice will stay in effect until testing results are received tomorrow. A Nixle alert will be sent once results are received, either lifting or being elevated. La Bonte added the break is repaired and was a part of a larger break that staff had been chasing for over a year. La Bonte noted the leak was in the water and not visible and only revealed itself once it broke.

DISCUSSIONS

(1) Code Rewrite Joint Work Session with Planning Commission and Design Review Board

McInelly thanked everyone for participating in the survey. McInelly gave an overview of the housing task force group, noting the dates in the packet are unavailable due to budget committee meetings and space limitations.

Moritz noted she wasn't aware this was a 3-day workshop. Kerr added she was in the same boat and didn't realize it was a multi-day workshop, adding it's quite expensive. Kerr noted a one-day workshop makes more sense. Bates noted it was discussed, but not forgone conclusion, a discussion ensued. McNelly noted her recollection of the discussion when Chet was here, giving an overview. McNelly shared examples of workshops. McNelly answered questions. Discussed the public involvement, the format, discussed McNelly's experiences from past workshops and process that could be used. Discussed how the packet represented that the meeting was about. Discussed people attending public meetings and steps moving forward.

McNelly noted she can move forward with the information I have, simplest would be to have another stakeholder meeting, a discussion ensued. Discussed how to move forward with the public. Sokolowski noted there is a good framework for the focus group to start with and bring back from before we start the process.

Bates noted the focus group will use the menu they have and come back with recommendations to this group to get feedback, then go revise and develop over a couple of months finalize something that can go to the public. In response to McCarthy's question what kind of information are you asking to be brought back, Bates replied how we would adjust the code to accommodate a fast track, or our ideas on how to get desired, middle and work force housing that meets our needs. In response to Hayes's question do you think we'll need multiple meetings, McNelly replied if the group meets and comes back in April we can bring drafts for initial review, but will need to bring back in May and June. Sokolowski noted there are policy issues with the land trust that are not zoning ordinance replated. Sokoloski added the focus for the update is to provide regulations that we are going to implement from zoning administration with clear and objective standards. The product is zoning ordinance amendments. McNelly added her preferred process was meeting with the focus group then present instead of coming back month after month, a discussion ensued. McNelly noted she hears she has the freedom of meeting with the stake holder committee and set that process up, beginning with list here and work with stake holder committee to work what's best for them to get through this, a discussion ensued.

McNelly noted she is going to take the direction she has been given by the stakeholder committee focus group move ahead to work with the focus group and develop the best schedule for doing it working with stakeholders committee on what works best. We will involve the public when we have something more fully formed, but not a final draft/version, substantial draft to present. In response to McCarthy's question will you bring any back to main group before going to public, Moritz replied her sense is the stakeholder comes up with plans. McNelly confirmed that is what would be required, adding it would be a public meeting and a chance for everything in the meeting to ask questions as well as the public. McNelly added the simple answer is yes, she will be coming back to group, and it would not be in April as there would not be a substantial version for you. McNelly noted this will be done in three phases, there's an initial concept – early, revised then final adding somewhere between early and revised involve public, between revised and final they would be involved. The attendees all agreed, except Tim who wanted to go around the room to hear from each person to see what they would like.

Sokolowski added if anyone has anything please share with staff and they'll get it incorporated with the task force discussion. Knop told the focus groups how much their work is appreciated and the for the staff's patience. Sokolowski added we are all a part of a team.

Ogilive asked McNelly when she'd like to get feedback from anyone in the focus group, McNelly replied she would like to convene the focus group fully one more time, hoping to meet within the next two weeks.

(2) Good of the Order

None

ADJORNMENT

The meeting was adjourned at 7:32 p.m.

ATTEST:

Jennifer Barrett, Recorder

Barb Knop, Mayor



CANNON BEACH CITY COUNCIL

STAFF REPORT

ADOPTING LIMITATION OF LIABILITY FOR CLAIMS ARISING FROM THE PUBLIC'S USE OF TRAILS OR STRUCTURES IN A PUBLIC EASEMENT OR UNIMPROVED RIGHT OF WAY

Agenda Date: April 16, 2024

Prepared by: Bruce St. Denis, City Manager

BACKGROUND

ORS 105.668 limits the liability of cities for personal injury and property damage that arises out of the public's non-motorized use of trails or structures in public easements and unimproved rights of way. Cities with populations of less than 500,000 must adopt the limitation of liability via ordinance or resolution.

ANALYSIS/INFORMATION

ORS 105.668 limits the liability of cities for personal injuries or property damage that arises out of the public's non-motorized use of trails and structures in public easements and unimproved rights of way. ORS 105.668 automatically applies to cities with populations of 500,000 or more. Cities with smaller populations must affirmatively adopt ORS 105.668's protections via either resolution or ordinance. ORS 105.668 also applies to cities' officers, employees, and agents; owners of land abutting the public easement or unimproved right of way; and nonprofits and their volunteers who construct and maintain trails and structures in public easements and unimproved rights of way. Adopting ORS 105.668 could encourage landowners to grant easements for the public's use by reducing their risk of liability. It could also encourage nonprofits to assist the City with trail maintenance and construction by reducing their risk of liability.

ORS 105.668 would also expand the City's existing limitations of liability. The recreational immunity provided by ORS 105.682 and ORS 105.688 already apply to the City. However, recreational immunity only protects the City when an individual is injured while engaged in recreational activities. ORS 105.668 applies regardless of the individual's reason for using trails or structures in public easements or unimproved rights of way. Additionally, the Oregon Court of Appeal's recent decision in *Fields v. City of Newport*, 326 Or App 764 (2023), has reduced the reach of cities' recreational immunity, which could create more liability for the City. ORS 105.668 could fill in the gap in recreational immunity left by the Court of Appeal's decision.

ORS 105.668's limitation of liability is not absolute, however. It will not protect the City if an individual is injured due to gross negligence or reckless, wanton, or intentional misconduct.

RECOMMENDATION

Should the council wish to proceed, an Ordinance will be presented at the May 7th meeting.

List of Attachments

A Draft Ordinance

ORDINANCE NO. [CITY]

AN ORDINANCE AMENDING [CITY MUNICIPAL CODE] TO ADOPT LIMITATION OF LIABILITY FOR CERTAIN CLAIMS ARISING FROM THE USE OF TRAILS OR STRUCTURES WITHIN PUBLIC EASEMENTS AND UNIMPROVED RIGHTS OF WAY UNDER ORS 105.668

WHEREAS, ORS 105.668(2) limits the liability of cities, adjacent property owners, and certain non-profit groups for injuries or property damage that result from the public's non-motorized use of trails or structures that are in a public easement or an unimproved right of way; and

WHEREAS, ORS 105.668(3) authorizes cities with populations less than 500,000 to adopt such limitation of liability by ordinance; and

WHEREAS, [CITY]'s population is less than 500,000; and

WHEREAS, [CITY] has trails or structures within its public easements and unimproved rights of way that may be used by the public for non-motorized activities such as walking, hiking, or biking; and

WHEREAS, [CITY] finds that the [CITY'S] trails and structures are an important public amenity, that the public's use of such trails or structures is important for the health and enjoyment of the community, and that use should be encouraged; and

WHEREAS, [CITY] finds that it is important to protect [CITY], adjacent property owners, and certain nonprofit groups who provide the public with access to and perform maintenance for such trails and structures so that the public may continue to access such trails and structures; and

WHEREAS, [CITY] finds that adopting the limitation of liability in ORS 105.668(2) will provide [CITY], adjacent property owners, and nonprofit groups with such protection and will encourage the public's continued use of trails and structures in [CITY'S] public easements and unimproved rights of way.

NOW, THEREFORE, THE CITY OF [CITY] ORDAINS AS FOLLOWS:

Section 1. Findings. The above findings are hereby adopted.

Section 2. Limitation on Liability. The [CITY MUNICIPAL CODE] is hereby amended as shown on the attached Exhibit A.

Section 3. Severability. If any provision, section, phrase, or word of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does in affect other provision that can be given effect without the invalid provision or application.

Section 4. Continued Effect. All other provisions of the [CITY MUNICIPAL CODE] shall remain unchanged and in full effect.

Section 5. Effective Date. This Ordinance shall be effective on the 30th day following its passage.

Ordinance adopted by the City Council of the [CITY] on this [] day of [], 2024.

[NAME]

Mayor of [CITY]

ATTEST:

[NAME]

City Recorder of [CITY]

DRAFT

ORDINANCE NO. [REDACTED]

EXHIBIT A

[1.001.010] Definitions.

As used in this [CODE SECTION], the following definitions apply:

- A. “Public easement” means a platted or dedicated easement for public access that is accessible by a user on foot, horseback, bicycle, or other similar conveyance, but does not include a platted or dedicated public access easement over private streets.
- B. “Structures” means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.
- C. “Trail” means a travel way for pedestrians, bicycles, and other non-motorized means of transportation and includes [REFERENCE TO DEFINITION OR EXAMPLES OF TRAIL ALREADY IN CODE, IF APPLICABLE]
- D. “Unimproved right of way” means a platted or dedicated public right of way over which a street, road or highway has not been constructed to the standards and specifications of the city with jurisdiction over the public right of way and for which the city has not expressly accepted responsibility for maintenance.

[1.001.020] Liability Limited.

- A. A personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:
 - 1. [CITY].
 - 2. [CITY’S] officers, employees, or agents to the extent that the officers, employees, or agents are entitled to defense and indemnification under ORS 30.285.
 - 3. The owner of land abutting the public easement or unimproved right of way.
 - 4. A nonprofit corporation and its volunteers for the construction and maintenance of the trail or structures in a public easement or unimproved right of way.

B. The immunity granted by this section does not extend to:

1. Except as provide by subsection [(A)(2)] of this section, a person that receives compensation for assistance, services, or advice in relation to conduct that leads to a personal injury or property damage.
2. Personal injury or property damage resulting from gross negligence or from reckless, wanton, or intentional misconduct.
3. An activity for which a person is strictly liable without regard to fault.



STAFF REPORT

SHORT TERM RENTAL (STR) DISCUSSION

Agenda Date: April 16, 2024

Prepared by: Steve Sokolowski
Community Development Director

BACKGROUND

During the December 2023 City Council Retreat, the council discussed potential zoning ordinance amendments related to the Short-Term Rentals (STR) section of the City of Cannon Beach Zoning Ordinance. At its February 13, 2024, meeting, the Council again addressed the STR topic and requested staff provide additional input on the STR topic during an upcoming Council meeting in April.

ANALYSIS/INFORMATION

General STR comments included:

- Capping Short Term Rentals to a maximum 200 STR's in Cannon Beach.

A new section would need to be created that explains the cap regulations (how many, process, etc.). This appears to be a much more in-depth topic that may need attorney input on how to address.

The total number of short-term rentals within the City of Cannon Beach shall be capped at a level not to exceed 200 dwelling units.

In the event the cap number is reached, the City shall establish a waiting list for the issuance of business license endorsements as they become available on a first come, first served basis.

- STR's will be the 14 days only once all lifetime and five (5) years expire.

There is language in the zoning ordinance that discusses that unlimited lifetime and five (5) years STR's will eventually expire.

- The penalty section needs to be updated because it takes too long to remove a troublesome STR.

Penalties. For violations of this chapter, the following penalties will be imposed:

1. *For the first violation within a twenty-four-month period, the penalty shall be a warning notice.*

The first violation, the penalty shall be a warning notice.

2. For the second violation within a twenty-four-month period, the penalty shall be a suspension of the permit for thirty days.

The second violation, the penalty shall be a suspension of the permit for thirty days.

3. For the third violation within a twenty-four-month period, the penalty shall be a suspension of the permit for ninety days.

The third violation, the penalty shall be a suspension of the permit for ninety days.

4. For the fourth violation within a twenty-four-month period, the penalty shall be a revocation of the permit.

The 4th violation, the penalty shall be a revocation of the permit.

I am not sure why the 24-month period is included. May want to consider removing the 24-month period time and just include this as violations to a property.

- Discussion on inactive STR's and how to address.

This would be a completely new section to speak about how this occurs. What is the process involved in making this determination? Is in activity considered a violation and administered through the violation procedure.

- Discussion on how to prevent the main house (primary property use) from becoming an STR when the property has an Accessory Dwelling Unit (ADU).

The new language could be incorporated into the General Provisions Section 17.77.030 and included in the Accessory Dwelling Unit (ADU) Section 17.54.080. Should be uniform language in both sections.

If a property has an Accessory Dwelling Unit (ADU), neither the primary dwelling nor the ADU may be used as short-term rentals.

- May also want to limit the STR to one dwelling if a property has two (2) dwellings on it such as two single-family dwellings or a duplex.

Short term rental use shall be limited to a single primary building on a lot.

A Short-term rental license may be issued only for a single dwelling unit on a single property or for a single dwelling unit within a duplex on a single property.

- May consider including a new section that allow a home to be used for STR two (2) or three (3) years after a new home has received an occupancy permit in the General Provisions Section 17.77.030. Is that the same for existing homes sold to new owners; should new homeowners also be required to meet this waiting period?

Other issues include:

- The City has learned that property owners who use Intermediary Agencies (like Air BnB, VRBO, etc.) do not have access to accurate registry information required by the municipal code. Intermediary Agencies do not provide financial statements for individual properties. This makes determining tax information and accuracy impossible. One bulk payment is sent to the city without any information. This means we do not know what or how many properties were rented, let alone if the taxes were correct. This is a much larger issue that may need additional attorney input on how to best address this through any proposed code revision to the zoning and/or municipal ordinance. This issue raises a red flag to the community Development Department and Finance Department who believe this could be addressed by requiring all STR property owners to use local property management companies because this is not an issue with STR property owners who use local property management companies.
- Regarding the discussion of the proposed 200 STR cap. The Council should be aware that the Community Development Department is fielding numerous calls from people asking about a potential cap. It is the department's belief that this cap discussion has increased the number of short-term rental applications that have been recently submitted for approval. The Community Development Department believes the Council should strongly consider including regulations that require property owners to own a home for at least two or three years before they may apply for a STR permit.



STAFF REPORT

LAND USE FEE DISCUSSION

Agenda Date: April 16, 2024

Prepared by: Steve Sokolowski,
Community Development Director

BACKGROUND

During the December 2023 City Council Retreat, the council discussed land use fees. It is staff's understanding that much of the discussion focused on appeal application fees and whether to waive/discount these fees to groups/organizations.

ANALYSIS/INFORMATION

In discussions with Attorney Bill Kabeiseman, a potential appeal application fee waiver may be possible, however, the Council needs to be aware, that it may open the door to other issues which could include:

- When considering a potential appeal fee waiver, it will be critical to have clear and objective criteria that specifically details who qualify for such a potential waiver. If the waiver is not clear and objective, the city could find itself in a lengthy battle about discrimination or arbitrary action in a challenge to deny a fee waiver or discount.
- Attorney Kabeiseman indicated that he has only worked with one city that has a similar policy and that the City just settled a 3-year court fight about the council's decision in that case not to waive the fee. The city eventually prevailed (case was dismissed), but it took a significant amount of time and money to litigate the case.
- Depending on how the Council defines "locals," may also present some commerce clause problems.
- What specifically is the waiver request process involved and who makes the determination to grant/deny such a waiver? How is such a decision appealed and who hears such an appeal?
- If the City does not charge fees that cover city costs, then someone else pays those fees, namely the other city taxpayers.
- Without an appeal fee, landowners may be subject to obstacles and delays that may be unnecessary and/or unwarranted.

The Council should be aware that the following employees participate in many of these development appeal applications:

- Community Development (4) – Community Development Director, City Planner, Administrative Assistant and Building Inspector
- Administration (2) - City Manager and City Recorder/Assistant to the City Manager
- Public Works (2) – Public Works Director and Assistant Public Works Director
- City Attorney – contract employee paid by the hour.

All the departments and positions listed above spend significant amounts of time in these appeal applications that include:

- Notices to paper, posting of notices, and property owner notice letters
- Internal meetings with staff
- External meetings with proponents and opponents
- Staff reports
- Meetings and Hearings
- Findings of Fact and Orders

Please see the examples provided at the end of the staff report to get an idea of the amount of time, resources and energy expended on the land use appeals by City departments/employees – these are just three (3) recent examples of appeal applications which do not include any of the recent LUBA appeals where the City attorney(s) is significantly more involved.

RECOMMENDATION

Staff recommends that the City of Cannon Beach continue to require all applicants who appeal a development permit to pay the appeal application fees.

EXAMPLES OF RECENT APPEAL APPLICATIONS

Cannon Beach Elementary School:

Initial Evidentiary DRB Hearing (Continued) – September 21, 2023

Initial Evidentiary DRB Continued Hearing – October 19, 2023 - DENIED

CIDA files appeal on behalf of City (within 14 days from the day of the denial)

Scope of Review Meeting – November 7, 2023

Council Appeal Hearing – December 5, 2023

Council Adopts Findings December 12, 2023

Mr. Paul White ADU

DRB Denial at Initial Evidentiary Hearing – August 17, 2023

White files appeal (within 14 days from the day of the denial)

Scope of Review Meeting – September 12, 2023

Council Appeal Hearing – October 3, 2023

Council Adopts Findings of Fact - November 7, 2023 (findings include a condition about potentially saving tree)

Council review information from applicant indicating they cannot save tree and Council requests information confirming this from City Arborist Jeff Gerhardt – November 14, 2023

Council review information from City Arborist Jeff Gerhardt to save tree – December 12, 2023

743 N. Ash Street – Tree Removal Permit:

Administrative Approval – May 2, 2023

Stastny Appeal (within 14 days from the day of the denial)

Initial Evidentiary PC Hearing (Continued) – May 25, 2023

Initial Evidentiary PC Continued Hearing– June 22, 2023 – DENIED

PC Adopts Findings of Fact – June 27, 2023

Scope of Review Meeting – July 25, 2023

Council Hearing – August 8, 2023 – Requested and was granted an extension.

Council Hearing – October 3, 2023 – Requested and was granted an extension

Appeal Application withdrawn prior to November 7, 2023, Council hearing.



CANNON BEACH CITY COUNCIL

STAFF REPORT

CBE MANAGEMENT COMMITTEE

Agenda Date: April 16, 2024

Prepared by: Bruce St. Denis, City Manager

BACKGROUND

At the February 13, 2024 meeting Council expressed interest forming a city sanctioned advisory committee for the former Cannon Beach Elementary School property. The city will need to manage the facility until a management contract can be fully flushed out. The creation of the committee will not preclude the management being turned over to a nonprofit in the future. The Committee would give the community a voice as it relates to the actual management of the facility and would be similar to the Farmers Market committee.

ANALYSIS/INFORMATION

Attachment A is the municipal code language for the Farmer's Market Committee to be used as a starting point. The Appointment – Term language from the Tourism and Arts Commission has been included as an example as it is different from other committees.

RECOMMENDATION

Council to provide staff input and direction.

List of Attachments

A Farmers Market Committee Language

Created.

Chapter 2.28 hereby creates a farmer's market committee hereinafter referred to as "committee.

Powers and duties.

The powers and duties of the committee shall include the following:

- A. Develop rules and procedures regulating the farmer's market so that its operation is responsive to the needs of the community. Ensure the proper implementation of such plans, rules and procedures;
- B. Monitor the finances of the farmer's market and make recommendations to the council for changes in the financial system(s) of the farmer's market;
- C. Perform other functions as directed by the council.

Membership.

The committee shall consist of five members.

Appointment—Term.

- A. Members of the committee shall be appointed by the council. Initially, three of the positions shall have a four-year term and two of the positions shall have a three-year term. Thereafter, all terms shall be for four years. All vacancies occurring on the committee shall be filled by the council for the unexpired term of the predecessor in office.
- B. No committee member shall serve more than eight consecutive years, but any person may be reappointed to the committee after an interval of one year.

This is the section from TAC should something similar be desired.

- A. Members of the committee shall be appointed by the city council to serve four-year terms.
- B. All vacancies occurring on the committee shall be filled by approval of the council for the unexpired term of the predecessor in office.
- C. No committee member shall serve more than eight consecutive years, but any person may be reappointed to the commission after an interval of one year.

Each member shall have experience in one or more of the following areas: public relations, marketing, advertising, tourism, lodging, promotions, events promotion, art, and/or publicity.

- D. Each member of the committee shall conform to the requirements of the municipal code, Section 2.04.010, Requirements for appointment, or, in the alternative, the member shall work, at least part-time, within the city of Cannon Beach.

Rules and regulations—Meetings.

- A. A majority of the members of the committee constitute a quorum. The committee may make and alter rules and regulations for its government and procedure consistent with the laws of the state of Oregon, the City Charter and any applicable ordinances.
- B. The committee shall meet at such times and places as may be fixed by the committee and provisions shall be made for recording the proceedings of the committee.

Officer election.

At its first meeting each calendar year, the committee shall elect a chair and a vice-chair.

Removal from office.

A member of the committee may be removed by the city council, after a hearing, for misconduct or the nonperformance of duty. A member who is absent for two meetings in a calendar year, without an approved excuse, is presumed to be in nonperformance of duty and the council shall declare the position vacant.

Compensation.

Committee members shall receive no compensation but shall be reimbursed for authorized expenses.



CANNON BEACH CITY COUNCIL

STAFF REPORT

PLEDGE OF ALLEGIANCE DISCUSSION

Agenda Date: April 16, 2024

Prepared by: Bruce St. Denis, City Manager

BACKGROUND

At the February 6, 2024, Council meeting, during Mayor Communication, Mayor Knop reported she received a letter from a citizen that asked why Council did not say the Pledge of Allegiance at their meeting.

ANALYSIS/INFORMATION

Council will discuss this topic.