

**CITY OF PORT ORFORD  
REGULAR SESSION OF THE COMMON COUNCIL  
THURSDAY, APRIL 20, 2023, AT 5:30 P.M.**

**Please join this meeting from your computer, tablet or smartphone.**

<https://meet.goto.com/192154149>

**You can also dial in using your phone.**

United States (Toll Free): 1 (877) 309-2073

United States: 1 (646) 749-3129

**Access Code: 192-154-149**

**AGENDA**

1. Call to order/roll call
2. Additions to the Agenda
3. House Keeping Items
4. Presentations to the Council/Citizens –
5. Consent Calendar (pg. 3-22)
  - a. Approve Minutes of March 15<sup>th</sup> regular meeting
  - b. Approve Minutes of March 23<sup>rd</sup> special meeting
  - c. Curry Health Network Community Project Letter of Support
  - d. Tasty Kate’s Funky Town OLCC application
  - e. Joyce Spicer for Historic Preservation Commission application
  - f. Kathrine E. Sampsel for Parks & Rec Committee application
6. Citizen Concerns (Speak Only for Old & New Business Items on the Agenda)
7. Public Hearings (pg. 23-108)
  - a. Appeal of CUP 16-02/16-03 hearing
8. Departmental Reports – (pg. 109-113)
  - a. Public works
  - b. Administration
  - c. Finance
  - d. Planning
  - e. Liaison Reports
 

Fire District	TLT - Pogwizd	Watershed - Vileisis
Port – Cox	Parks - Tidey	Emergnecy Mgmt. - Burns/Ward
School District	Main Street – Burns	Police

9. Old Business

10. New Business (pg. 114-135)

- a. **RESOLUTION 2023-04: Water Resolution – Definition revisions**
- b. Janitorial Contract
- c. Liaison Reports
- d. Discussion on Scheduling/Agenda workshop
- e. Budget Officer appointment

11. Continuing Action Items

12. Considerations

- a. Citizens
- b. Staff
- c. Council
- d. Mayor

13. Future Meetings

Thursday, May 18<sup>th</sup> 2023; Regular Meeting In the Gable Chambers and Online at 5:30 pm

14. Adjourn

15. Executive Session: ORS 192.660(2)(a). To consider the employment of a public officer, employee, staff member, or individual agent. **(CLOSED TO THE PUBLIC)**

16. Executive Session: ORS 192.660(2)(f). To consider information or records that are exempt by law from public inspection. **(CLOSED TO THE PUBLIC)**

**PUBLIC:** When you join the meeting (5-10 min. prior to the meeting)

- **If you plan to speak/comment during the meeting (when permissible to do so), please announce your name and “how: you are joining the meeting (computer, phone, in person). Speak slowly and clearly so the organizer may “find” you and identify your “caller” location**
- **Please wait to be called on to speak, to avoid talking over someone**
- **When you are not speaking, please mute yourself (so the organizer doesn’t have to do this)**
- **Please limit side conversations and multitasking while you are in the meeting**
- **Be aware even if you are not on camera, sound can be heard over unmeted phones and will be distracting. And if you are on camera “absences” will be noticeable and distracting**
- **To minimize feedback noise, we will only have the meeting host, Mayor and one other speaker unmuted at any time during the meeting.**
- **Please be aware that if poor etiquette is being observed, it may be called out so you have an opportunity to fix the situation.**

# City of Port Orford

## CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Consent Calendar

ITEM NO: 5 A - F

- 4a. Approve Minutes of the March 16, 2023, regular session of the City Council
- 4b. Approve Minutes of the March 23, 2023, special meeting of the City Council
- 4c. Authorize Mayor to execute letter of support for Curry Health Network (CHN) chemotherapy State grant application.

*The City Council approved a letter of support for Federal grant funding for this same project at an earlier City Council meeting. This letter supports the proposal by CHN to secure State grant funding for a chemotherapy program at Curry General Hospital*

- 4d. Review Oregon Liquor Control Commission (OLCC) application for Tasty Kate’s Funky Town.

*The owners of Tasty Kate’s Funky Town have applied for an amended OLCC license to allow serving alcohol outside for the remainder of summer*

- 4e. Review Joyce Spicer for Historic Preservation Commission

- 4f. Review Kathrine E. Sampsel for Parks & Rec Committee

### Suggested Motions

#### ***Motion to Approve the Consent Calendar***

I move to approve the Consent calendar for April 20<sup>th</sup>, 2023

#### ***Motion to Deny the Consent Calendar***

I move to deny the Consent calendar for April 20<sup>th</sup>, 2023

#### ***Motion to Approve the Consent Calendar with changes***

I move to approve the Consent calendar for April 20<sup>th</sup>, 2023 with the following changes.....

SUBMITTED BY:

Gary Milliman, City Administrator Pro Tem

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**City of Port Orford**  
**City Council Meeting**  
**In the Gable Chambers / Virtual participants**  
**Thursday, March 16, 2023 at 5:30 P.M.**

<b>Mayor and Council</b>	<b>Present</b>	<b>City Staff</b>	<b>Present</b>
<i>Pat Cox, Mayor</i>	X	<i>CA Ginsburg</i>	X
<i>Brett Webb</i>	X	<i>Shala Kudlac, City Attorney</i>	X
<i>Gary Burns</i>	X	<i>John Isadore, Public Works</i>	X
<i>Perri Rask</i>	X		
<i>Ann Vileisis</i>	X		
<i>Greg Tidey</i>	X		

*The minutes were prepared to the best of our ability considering the challenging quality of the audio for those attending in the Gable Chambers. The beginning 11 minutes of the meeting was not video recorded.*

Others Present: Eric Street and Chris Bennet of Sustainability Partners,

**1. Call to Order**

Mayor Cox called to order this Meeting of the Common Council on March 16, 2023, at 5:36 p.m. Mayor Cox and attendees recited the Pledge of Allegiance.

**2. Additions to the Agenda**

- Item B to be removed from the Consent Calendar.
- Item 8B to be removed.
- SB948 is not on the agenda under the advisement of legal counsel since it ties in with the hearing, etc.
- Citizen considerations will be moved forward on the agenda due to the executive session.

**3. Citizen Considerations:**

A citizen spoke on senate bill 948, which was introduced in this legislative session by Senator David Brock Smith. It would appropriate 750 thousand dollars to the City of Port Orford for distribution for the purpose of water recycling. She questioned what the 750 thousand dollars can be used for. She asked what project the city has that involves water recycling. This topic is tied to the hearing to be held in April and is not on the agenda. She is concerned that the recycled water is related to the golf course.

**4. Presentations to Council/Citizens – Sustainability Partners regarding new water meters and equipment.**

Eric Street and Chris Bennet are present virtually, representatives of Sustainability Partners. Mr. Bennet recapped information on the state-of-the-art water meters that can track the lowest amount of flow in the industry and is able to hear the leaks throughout the service lines. Sustainability Partners would like to replace the City of Port Orford’s meters with these new meters. The new water metering system will be paid for up front by the company. The city will pay the funds back by giving a percentage of the citizen’s payments to the company. The city’s revenue will go up due to less lost water. The sustainability Partners would always own the meters, repairs and nonpayment disconnect. The city can buy out of the program at any time. The city can buy into new technology as it becomes available. Mr. Street gave positive feedback from other jurisdictions and examples of how the increase in revenue can be used for other infrastructure technology. Sustainability Partners’ goal is to establish a 100-year relationship with municipalities.

PW superintendent Isadore informed councilors of revenue that would be saved through less employee overtime, etc. as well as revenue from less water loss. He reminded that the sewer charge is read off of the water meters. PW superintendent Isadore spoke on public works capacity to repair the leaks this new system can find at the request of Councilor Vileisis. Mr. Isadore stated they will address the large leaks first. Mr. Bennet advised that the small leaks that you cannot see will cost a lot of water loss. It might be beneficial to hire a small contracting company if Port Orford Public Works gets overwhelmed.

Mr. Bennet advised that once the city decides to move forward, it will realistically take about two months to begin the installation. A ten-page sample contract will be presented for council review and legal counsel review. Mr. Bennet advised that his staff will come to Port Orford to assist with billing integration, reading software, and IT support.

**5. Consent Calendar:**

**a. Daniel Kerns Additional Hours:** Councilor Webb moved to approve the five additional hours for Daniel Kerns with Councilor Vileisis as second. *Motion carried 4-1.*

Discussion: None.

<i>Councilor Burns</i>	<u><i>Yes</i></u>	<i>Councilor Vileisis</i>	<u><i>Yes</i></u>	<i>Councilor Webb</i>	<u><i>No</i></u>
<i>Councilor Rask</i>	<u><i>Yes</i></u>	<i>Councilor Tidey</i>	<u><i>Yes</i></u>		

**b. Bev Bacak Approval for Historical Commission:** Item removed.

**c. Council Meeting Minutes February 16, 2023.** Councilors do not have a copy of the January, 2023 meeting minutes.

Councilor Burns moved to approve the February 16, 2023 meeting minutes with Councilor Tidey as second. *Motion carried 5-0.*

Discussion: None.

<i>Councilor Burns</i>	<u><i>Yes</i></u>	<i>Councilor Vileisis</i>	<u><i>Yes</i></u>	<i>Councilor Webb</i>	<u><i>Yes</i></u>
<i>Councilor Rask</i>	<u><i>Yes</i></u>	<i>Councilor Tidey</i>	<u><i>Yes</i></u>		

**d. Temp Liquor License Approval Rotary Dinner Auction:** Councilor Webb moved to approve the temporary liquor license for the Rotary dinner/auction with Councilor Vileisis as second.

**Motion carried 5-0.**

Discussion: None.

<i>Councilor Burns</i>	<u><i>Yes</i></u>	<i>Councilor Vileisis</i>	<u><i>Yes</i></u>	<i>Councilor Webb</i>	<u><i>Yes</i></u>
<i>Councilor Rask</i>	<u><i>Yes</i></u>	<i>Councilor Tidey</i>	<u><i>Yes</i></u>		

**6. Citizens' Concerns:** None.

**7. Departmental Reports:** New **liaison reports and appointments** will be on the **next agenda**.

**a. Public Works:** A written report has been provided to councilors by Jon Isadore. The process of right of way violations is outlined by CA Ginsburg. Ordinance violation enforcement is discussed. Legal Counsel Kudlac outlined the legal process including fines, which can be recorded. Jon Isadore described the locate process and requirements on right of ways and properties. Stop-work orders and outcomes of such were discussed. This **stop work order** process will be added to next month's **agenda**.

Dredging is limited to 25 yards. The dredging process and timeline was described by Jon Isadore.

**b. Administration/Financial Report:** CA Ginsburg provided a financial report to councilors and in the packet.

**c. Liaison Reports:** **Liaison reports** will be added to **next month's agenda**.

**8. Old Business**

**a. Parks Commission Requisitions:** Parks budget was clarified. Councilor Tidey addressed the items that Parks Commission has asked to be ordered. There are 6 memorial benches that citizens are interested in. Some are Rotary projects. These items also include 3 trash receptacles, 3 picnic tables, 1 equipment storage box, 3 free standing message boards, 2 soccer goals and 2 free-standing grills at the cost of \$17,606.23. Councilor Vileisis moved to approve the purchase of these items at the cost of \$17,606.23 with Councilor Webb as second. **Motion carried 5-0.**

Discussion: After reviewing the Parks Master Plans, Councilor Vileisis asked for clarification on how the Parks budget is prioritized. Councilor Tidey gave a history of prior Park Commissions decisions and how the current Park Commission is catching up on maintenance. The Parks Commission identifies the maintenance needs and will prioritize those maintenance needs. Jon Isadore advised that Public Works would assist the parks on maintenance when requested. The park host assists with cleanup and trash. Councilor Webb is concerned about the barbecue pit.

Councilor Tidey suggested locking the pit during fire restrictions.

<i>Councilor Burns</i>	<u><i>Yes</i></u>	<i>Councilor Vileisis</i>	<u><i>Yes</i></u>	<i>Councilor Webb</i>	<u><i>Yes</i></u>
<i>Councilor Rask</i>	<u><i>Yes</i></u>	<i>Councilor Tidey</i>	<u><i>Yes</i></u>		

- b. Rotary Club-Rental agreement of ALH:** Councilor Tidey moved to approve the termination of the management agreement between the City of Port Orford and the Rotary Club with Councilor Burns as second. ***Motion carried 5-0.***

Discussion: CA Ginsburg explained that The Rotary would like to stay and use the facilities but do not want to be the maintainers of the facility. They will continue to pay the current rent and make payments on the equipment. Councilor Tidey is concerned about outstanding keys.

***Councilor Burns***     *Yes*     ***Councilor Vileisis***     *Yes*     ***Councilor Webb***     *Yes*  
***Councilor Rask***     *Yes*     ***Councilor Tidey***     *Yes*

**9. New Business:**

- a. CTR Rate Increase:** Luke Pyke, manager for Curry Transfer and Recycle (CTR), is in attendance. He is requesting readjustment based on CTI of 8.0 percent in 2022 and how the 2.26 increase for the 32-gallon cart was calculated. Customers can save funds by going down a size in the cart.

Councilor Webb moved to approve the rate adjustment of 8 percent request from CTR based on the prior year's US CPI average effective April 1, 2023 with Council Burns as second. ***Motion carried 4-1.***

Discussion: None.

***Councilor Burns***     *Yes*     ***Councilor Vileisis***     *Yes*     ***Councilor Webb***     *Yes*  
***Councilor Rask***     *Yes*     ***Councilor Tidey***     *Yes*

- b. Police Levy Discussion/Decision:** The current police levy expires on June 30, 2024. It will need to be on the ballot on November 7, 2023 to be active in fiscal year 2025. In past years it was 1.90/1000; however, it was lowered in the last levy to 1.80/1000. By consensus, councilors agree to approve the police levy to remain at the reduced level of 1.80 per 1000 for an additional 5 years. ***Councilors agree unanimously.***

Discussion: The length of the levy is discussed at length. Councilor Webb suggested 10 years to instill security in the police department. Raising the levy from 1.80/1000 to 1.90/1000 amounts to about 9,000 dollars. It was agreed that the city benefits from having their own police department. Verbiage to present to the citizens was discussed.

Chief Hobart spoke on the term of the levy. He has not ever seen a 10-year levy. He is comfortable with a 5-year levy. He identified expenses that will increase over the next years. He clarified that the police are funded by the City of Port Orford general fund and the levy.

***Councilor Burns***     *Yes*     ***Councilor Vileisis***     *Yes*     ***Councilor Webb***     *Yes*  
***Councilor Rask***     *Yes*     ***Councilor Tidey***     *Yes*

- c. City Council Priorities – Accept priorities established at Workshop on February 28, 2023.** Councilor Webb was not present at the workshop. Councilor Vileisis is concerned that councilors are losing time to work on assignments if this is put on the agenda next month. She suggested councilors submit ideas to Jessica and bring them back to the council meeting next month. Mayor Cox informed councilors the purpose is to come to the meeting with action items rather than discussions.

- i. Establish Committee to Amend Council Rules: **Workshop to be scheduled.**
- ii. Establish Committee to Increase Grant Capacity
- iii. Establish Committee to Review City Staffing and Job Description
- iv. Liaison Appointments

**10. Continuing action Items.**

- Website
- Roof quotes
- Wetland walkway
- Short-Term Rental
- Union negotiations

**11. Considerations:**

**Staff:** None.

**Councilor:** None.

**Mayor:** None.

**12. Future Meetings:**

**Thursday, April 20, 2023, Regular Council Meeting 5:30, hybrid.**

**Adjourn:** There being no further business, Mayor Cox Adjourned the meeting at 9:30 p.m.

Attest:

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Mayor, Pat Cox

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Gary Milliman, City Administrator Pro Tem

Mayor Cox closed the Executive Session at 8:26. Below is for public record.

Councilor Rask made a motion to place the City Administrator on paid administrative leave effective immediately with authority to Council President Ann Vileisis to work in conjunction with legal counsel to facilitate the process. ***Motion carried 5-0.***

Discussion: None.

<i>Councilor Burns</i>	<u><i>Yes</i></u>	<i>Councilor Vileisis</i>	<u><i>Yes</i></u>	<i>Councilor Webb</i>	<u><i>Yes</i></u>
<i>Councilor Rask</i>	<u><i>Yes</i></u>	<i>Councilor Tidey</i>	<u><i>Yes</i></u>		

Attest:

\_\_\_\_\_  
Mayor, Pat Cox

\_\_\_\_\_  
Council President, Ann Vileisis

**CITY OF PORTORFORD; CITY COUNCIL MEETING MINUTES  
FROM THE GABLE CHAMBERS THURSDAY, March 23, 2023**

Mayor and Council	Present	City Staff	Present
Gary Burns	Yes	Jessica Ginsburg Admin/Recorder	Absent
Ann Vileisis	Virtual	Shala McKenzie Kudlac Attorney	Absent
Brett Webb	Yes	Hank Hobart Chief	Absent
Perri Rask	Absent		
Gregory Tidey	Yes		
Tim Pogwizd	Virtual		
Mayor Pat Cox	Yes		

Media Present: None

Others Present: Caller 1 (virtual), Joseph Harrison (city staff), 0 public in attendance.

1. Call to Order/Roll Call (5:32)

Mayor Pat Cox called to order this Special Meeting of the Common Council of the City of Port Orford in the Gable Chambers on Thursday, March 23, 2023, at 5:32 p.m.

2. Request for Liquor License for the Shoreline Motel (5:32)

Tabled while documentation was being retrieved for council review and discussion. Moved onto Item 3.

3. Water Curtailment Penalty (5:33)

Discussion: The current curtailment policy disproportionately punishes less well off individuals and insufficiently holds organizations and groups accountable for overuse of water. Councilors discussed how the current policy effects individual citizens and alternative means of curtailing water use were brought up; the one that received the most discussion was the idea to lower cost for those using less water than the average instead of penalizing those who use more. Some extra conversation about changing the formula for penalties. Additionally; the idea of modifying Short Term Rental Ordinance to include the installation of Water Saving Fixture or potential restrictions on Water Wasting leisure activities (i.e. hot tubs)

Councilor Webb motions to suspend the penalty portion of the curtailment.

Motion Seconded by Councilor Vileisis

Motion Vote: Motion unanimously carried; 4-0

4. Return to Item 2 Request for Liquor License for Shoreline Motel (5:56)

Discussion: Various Councilors wanted to know details of what types of drinks will be offered at the Shoreline and more about the OLCC process. Councilor Tidey explained the OLCC license process and answered their questions. Answers for types of alcohol served came from the OLCC application submitted to council for review.

Councilor Burns Motions to approve.  
Councilor Tidey Seconded motion  
Motion Vote: Motion unanimously carried; 4-0 (5:58)

5. Executive Session: ORS 192.660(2)(1). To consider the employment of a public officer, employee, staff member or individual agent.

Councilor Burns motions to close public session and start executive session.  
Councilor Tidey seconds motion  
Motion Vote: Motion unanimously carried 4-0 (5:58)

Discussion: Unavailable for Executive Sessions  
Councilor Webb motions to approve, pending legal review, the contract between Gary Milliman and The City of Port Orford.  
Councilor Burns seconded.  
Motion Vote: Motion Unanimously carried; 4-0 (6:10)

Adjourn

There being no further business Mayor Cox adjourned the meeting at 6:10 p.m.

Attest:

\_\_\_\_\_  
Mayor Pat Cox

\_\_\_\_\_  
Councilor Ann Vileisis

END OF DOCUMENT





## *CITY OF PORT ORFORD*

◆ 555 W. 20<sup>th</sup> St. ◆ P.O. Box 310, Port Orford, OR 97465 ◆ Ph: 541-332-3681 ◆ fx: 877-281-5307 ◆

Virginia Williams, Chief Executive Officer  
Curry Health Network  
94220 4th Street  
Gold Beach, OR 97444

April 5, 2023

Dear Ms. Williams:

On behalf of the City of Port Orford, I am writing to endorse Curry Health Network's Community Project Funding request of \$2.0 million for its Chemotherapy Treatment Project.

Curry Health Network is a trusted partner for our region's health care and having enhanced chemotherapy services and support for our community is a critical need. Right now, people in Curry County must travel up to seven hours roundtrip for chemotherapy support because those services are not available locally. This creates tremendous hardship for people who need to miss work or care for family members as they receive frequent chemotherapy treatment for many weeks. Furthermore, when U.S. Highway 101 is closed due to weather or emergency conditions, many residents are not able to access medical treatment due to Curry County being an isolated region connected to the north and south by a single coastal route.

Port Orford supports this request because we have heard many stories of hardships presented by the absence of this service from our community and our County and the improved clinical outcomes from not having to travel out of County for chemotherapy services.

This project deserves support from the Oregon Legislature. Curry Health Network has been a crucial community resource during the COVID-19 pandemic and operating at peak levels to keep our community safe. This project represents a sustainable, cost-effective community health investment that will create needed care options for Curry County residents needing chemotherapy support and care. We are pleased to stand with Curry Health Network in support of this project and urge the Oregon Legislature to include it for funding.

Sincerely,  
Pat Cox  
Mayor

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# LIQUOR LICENSE APPLICATION

Page 1 of 4

Check the appropriate license request option:

**X New Outlet** | Change of Ownership | Greater Privilege | Lesser Privilege | Additional Privilege

Select the license type you are applying for.

More information about all license types is available [online](#).

Full On-Premises

**X Commercial**

Caterer

Public Passenger Carrier

Other Public Location

For Profit Private Club

Nonprofit Private Club

Winery

Primary location

Additional locations: 2nd 3rd 4th 5th

Brewery

Primary location

Additional locations: 02nd 03rd

Brewery-Public House

Primary location

Additional locations: 02nd 03rd

Grower Sales Privilege

Primary location

Additional locations: 02nd 03rd

Distillery

Primary location

Additional tasting locations: 02nd 03rd C]4th 05th 06th

Limited On-Premises

Off Premises

Warehouse

Wholesale Malt Beverage and Wine

Local Governing Body: After providing your recommendation, return this application to the applicant.

LOCAL GOVERNING BODY USE ONLY

City/County name: Port Orford

Optional: Date Stamp: 4/20/23

**X Recommend this license be granted**

Recommend this license be denied

Printed Name: Joseph Harrison

Date: 4/10/2023

# LIQUOR LICENSE APPLICATION

Page 2 of 4

## APPLICANT INFORMATION

Identify the applicants applying for the license. This is the entity (example: corporation or LLC) or individual(s) applying for the license. Please add an additional page if more space is needed.

Name of entity or individual applicant #1: <b>Tasty Kate's Funky Town LLC</b>	Name of entity or individual applicant #2:
--	--

Name of entity or individual applicant #3:	Name of entity or individual applicant #4:
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## BUSINESS INFORMATION

Trade Name of the Business (name customers will see):

**Tasty Kate's Funky Town**

Premises street address (The physical location of the business and where the liquor license will be posted):

**905 Oregon Street**

City: <b>Port Orford</b>	Zip Code: 97465	County: Curry
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Business phone number: <b>5412904999</b>	Business email: <b>tastykates@earthlink.net</b>
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Business mailing address (where we will send any items by mail as described in QAU45-z0Q4:..QQ65L11.):

**PO Box 609**

City: <b>Port Orford</b>	State: <b>OR</b>	Zip Code: <b>97465</b>
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Does the business address currently have an OLCC liquor license? Yes   <b>X No</b>	Does the business address currently have an OLCC marijuana license? Yes   No
--	--

**Authorized Agent section removed for formatting reasons; No applicable info in section.**

# LIQUOR LICENSE APPLICATION Page 3 of 4

**APPLICATION CONTACT INFORMATION** — Provide the point of contact for this application. If this individual is not an applicant or licensee, the Authorized Representative section must be filled in and the appropriate permission(s) must be selected.

Application Contact Name: Katie King

Phone number: 5412904999

Email: [tastykates@earthlink.net](mailto:tastykates@earthlink.net)

## TERMS

- "Real property" means the real estate (land) and generally whatever is erected or affixed to the land (for example, the building) at the business address.

"Common area" is a privately owned area where two or more parties (property tenants) have permission to use the area in common. Examples include the walking areas between stores at a shopping center, lobbies, hallways, patios, parking lots, etc. An area's designation as a "common area" is typically identified in the lease or rental agreement.

## ATTESTATION - OWNERSHIP AND CONTROL OF THE BUSINESS AND PREMISES

- Each applicant listed in the "Application Information" section of this form has read and understands OAR 845-005-0311 and attests that:
  1. At least one applicant listed in the "Application Information" section of this form has the legal right to occupy and control the real property proposed to be licensed as shown by a property deed, lease, rental agreement, or similar document.
  2. No person not listed as an applicant in the "Application Information" section of this form has an ownership interest in the business proposed to be licensed, unless the person qualifies to have that ownership interest waived under OAR 845-005-0311.
  3. The licensed premises at the premises street address proposed to be licensed either:
    - a. Does not include any common areas; or
    - b. Does include one or more common areas; however, only the applicant(s) have the exclusive right to engage in alcohol sales and service in the area to be included as part of the licensed premises.
      - In this circumstance, the applicant(s) acknowledges responsibility for ensuring compliance with liquor laws within and in the immediate vicinity of the licensed premises, including in portions of the premises that are situated in "common areas" and that this requirement applies at all times, even when the business is closed.
  4. The licensed premises at the premises street address either:
    - a. Has no area on property controlled by a public entity (like a city, county, or state); or
    - b. Has one or more areas on property controlled by a public entity (like a city, county, or state) and the public entity has given at least one of the applicant(s) permission to exercise the privileges of the license in the area.

# LIQUOR LICENSE APPLICATION

page 4 Of 4

• Each applicant listed in the "Application Information" section of this form has read and understands OAR 845-006-0362 and attests that:

1. Upon licensure, each licensee is responsible for the conduct of others on the licensed premises, including in outdoor areas.
2. The licensed premises will be controlled to promote public safety and prevent problems and violations, with particular emphasis on preventing minors from obtaining or consuming alcoholic beverages, preventing over-service of alcoholic beverages, preventing open containers of alcoholic beverages from leaving the licensed premises unless allowed by OLCC rules, and preventing noisy, disorderly, and unlawful activity on the licensed premises.

I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application, are true and complete.

Print name	Signature	Date	Atty. Bar Info (if applicable)
Print name	Signature	Date	Atty. Bar Info (if applicable)
<b>Catherine King</b>	<i>Catherine King</i>	<i>4/4/23</i>	
Print name	Signature	Date	Atty. Bar Info (if applicable)
Print name	Signature		

END OF DOCUMENT

## APPLICATION FOR APPOINTMENT TO COMMISSION, COMMITTEE OR TASK FORCE

\*\*If you do not wish to have any specific information in this form given out to the general public, please let us know, in writing, and tell us the reason why. We will try to honor your request within the constraints of the applicable public records law\*\*

I am interested in serving as a member of the HISTORIC PRESERVATION Society Commission

Name: Joyce Spicer

Mailing Address: P.O. Box 877 PORT ORFORD OR

Home Address: 915 OREGON ST. PORT ORFORD OR

Home Phone: 541-253-6198 Work Phone: Same Fax: \_\_\_\_\_

E-mail: LAUGHINGBASKETS@gsnet.com

Current Employment: ARTIST/REALTOR

Area of Interest: houses & structures

Area of expertise: Real estate background

Why do you want to serve? to help preserve the spirit of our little coastal town

Previous service in this appointed position or similar position ART COUNCIL, LIBRARY FOUNDATION PLANNING COMMISSION BUDGET COMMITTEE

Other volunteer activities DRIVER FOR MEALS FOR NEIGHBORS

## Does your schedule allow you to attend;

Daytime Meetings  yes  no Evening meeting  yes  no

Does your schedule limit the day you could attend meetings?  yes  no

Have you ever been convicted of a crime?  yes  no If yes, please explain

Additional Comments \_\_\_\_\_

Date: 3/31/23 Signature: Joyce H. Spicer

Please return application to:

City of Port Orford  
P.O. Box 310  
Port Orford, OR 97465

Phone: 541-366-4568

Fax: 1-877-281-5307

email: [jginsburg@portorford.org](mailto:jginsburg@portorford.org)

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## PAGE

## APPLICATION FOR APPOINTMENT TO COMMISSION, COMMITTEE OR TASK FORCE

\*\*If you do not wish to have any specific information in this form given out to the general public, please let us know, in writing, and tell us the reason why. We will try to honor your request within the constraints of the applicable public records law\*\*

I am interested in serving as a member of the Parks + Rec committee

Name: Katherine E Sampsel (Kait)

Mailing Address: 42126 Haiku Ln, Port Orford, OR 97465

Home Address: 42126 Haiku Ln, Port Orford, OR 97465

Home Phone: 503-467-1161 Work Phone: 503-467-1161 Fax: \_\_\_\_\_

E-mail: info@humbleheronflyfishing.com

Current Employment: Port Orford Sustainable Seafood / The Humble Heron

Area of Interest: Outdoor Recreation / Environmental Ed programs

Area of expertise: Outdoor Environmental Education / Parks + Rec

Why do you want to serve? To better our community with more opportunities for our youth, better programs, parks, and structures/services.

Previous service in this appointed position or similar position have developed similar programs in the Grants Pass, OR area. Outdoor school teacher / outfitter and guide.

Other volunteer activities Beach clean-ups, T-Ball, Dance, etc..

**Does your schedule allow you to attend;**

Daytime Meetings  yes  no Evening meeting  yes  no

Does your schedule limit the day you could attend meetings?  yes  no

Have you ever been convicted of a crime?  yes  no If yes, please explain

Additional Comments would appreciate eventually to see if programs I have been thinking of are viable and or supported thru Parks + Rec Dept.

Date: 04/03/2023 Signature: [Handwritten Signature]

Please return application to:

City of Port Orford  
P.O. Box 310  
Port Orford, OR 97465

Phone: 541-366-4568

Fax: 1-877-281-5307

email: [jginsburg@portorford.org](mailto:jginsburg@portorford.org)

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Jessica Ginsburg

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From: Penny Suess <penny@net-gain.us>  
Sent: Wednesday, January 11, 2023 5:17 PM  
To: Jessica Ginsburg  
Subject: Appeal of Planning Commission Decision 1-10-23  
Attachments: Suess to Port Orford CC\_January 2023\_ERPD Appeal Form.pdf; 1-10-2023 PO Planning packet-pages-1,9.pdf; Suess to Port Orford CC Appeal of ERPD Time Extension Requests Appeal Narrative 2023.pdf; Port Orford to Suess re No Fee for ERPD Time Extension Appeal March 2020.pdf

From: Penny Suess penny@net-gain.us

Date: January 11, 2023

To: Jessica Ginsburg, City Administrator, City of Port Orford

I am hereby submitting my appeal to the Port Orford City Council of the decision to extend CUP 16-02 and CUP 16-03, as requested by Elk River Property Development LLC at the Port Orford Planning Commission meeting held on January 10, 2023.

Please respond via email that you have received this email with all four attachments, and were able to open all of them.

Attachments:

1. City of Port Orford Land Use Decision Appeal Request
2. Planning Commission Agenda for January 10, 2023, with the ERPD request for extension of its pipeline CUPs
3. Appeal Narrative and Testimony of Appellant before the Planning Commission
4. Statement of former City Administrator that no fee is required for this type of filing

APPEAL DOCUMENT

CITY OF PORT ORFORD  
LAND USE DECISION APPEAL REQUEST

Type of Land Use Decision:

Planning Director \_\_\_\_\_  
Planning Commission X

FOR OFFICE USE ONLY

Date Received: \_\_\_\_\_  
Required Fee: \$ \_\_\_\_\_  
Fee Receipt #: \_\_\_\_\_

APPELLANT:

Name Penny Suess  
Address 834 Deady St., Port Orford, OR 97465  
P.O. Box 276 " " "  
Telephone (541) 332-3017 Fax ( ) \_\_\_\_\_

STANDING: I have standing to appeal this decision because (check each applicable reason):

- I am the applicant or agent of the applicant.
- I participated in the decision by providing written testimony which was admitted to the record of the hearing.
- I participated in the decision by providing oral testimony at the public hearing on this matter.
- I represent an agency that is affected by the decision and was notified of the pending decision and responded to the notice.

DECISION INFORMATION:

Application # CUP 16-02 + 16-03 Decision Date January 10, 2023  
Applicant Name(s) Elk River Property Development LLC  
Nature of Decision Extension of pipeline CUP 16-02 and 16-03

Subject Property: Assessor Map # \_\_\_\_\_ Tax Lot(s) \_\_\_\_\_

APPELLANT SIGNATURE: Penny Suess Date Jan. 11, 2023

} see attached  
A① and  
A②

NOTE: The required fee, in currency or negotiable instrument, must accompany this request in order for it to be accepted by the city as a valid appeal of this decision.

APPEAL DOCUMENT

**PORT ORFORD PLANNING COMMISSION  
CITY COUNCIL CHAMBERS, PORT ORFORD CITY HALL  
HYBRID MEETING  
Tuesday, January 10, 2023  
4:00 PM**

How to Participate:  
Tue, January 10, 2023 4:00 PM

**Please join my meeting from your computer, tablet or smartphone.**

<https://global.gotomeeting.com/join/915224389>

**You can also dial in using your phone.**

United States (Toll Free): [1 877 309 2073](tel:18773092073)

United States: [+1 \(646\) 749-3129](tel:+16467493129)

Access Code: 915-224-389

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/915224389>

1. Call to Order
2. Additions to the Agenda
3. Approval of Minutes: December 06 Meeting (Pg. 3-8)
4. Announcements and Communications
  - A. Chairperson/Assistant City Planner
5. Comments from the Public (Agenda Items only)
6. Public Hearing- None
7. Planning Matters-
  - i. Conditional Use Permit Extention 16-02 and 16-03 Approval (Pg. 9-10)
8. Other Business
  - A. Announcements and Communications:
    - i. City Planner Comments
    - ii. Planning Commission Comments
9. Public Considerations
10. Adjourn

APPEALMENT DOCUMENT

Appeal Narrative of Penny Suess for Conditional Use Permits 16-02 and 16-03 (Elk River Property Development LLC.)

Following is my testimony before the Planning Commission on January 10, 2023, which raises two issues informing my appeal of the Planning Commission's approval of Elk River Property Development's pipeline CUP extension requests.

The first is that the applicant is only allowed a single one-year extension by the plain language of Port Orford Municipal Code, Section 17.32.060.

Second, the applicant has not engaged in "substantial construction," under the same provision. For those reasons, this current extension should not have been granted.

Thank you,

Penny Suess January 11, 2023

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Regarding the requested extension of CUP 16-02 and 16-03:

Where is the staff report or other guidance to commissioners? Three of the current members were not on the commission when this issue was last considered, in January 2022. Yet the packet does not even provide the citation from the Municipal Code that covers an extension to a Conditional Use Permit. Here it is:

Ch. 17. Sec. 32. Par. 060 Time limit on a permit for conditional use.

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, upon written application to the Planning Commission. (Ord. 278 6.050, 1977)

The applicant has not stated any justification for this fifth extension request. No construction of the pipeline has taken place. No construction of the golf course it is proposed to serve has taken place. No substantial construction? Then the CUPs shall be void.

They claim that they are still working on their DEQ permit. Where is their proof? DEQ stated a year ago that they consider the issue dead for lack of work by the applicant. What has changed?

The Planning Commission may extend authorization of the pipeline CUP for no more than one year. I repeat, "may extend authorization," not shall, not must. It is within your discretion to refuse.

The applicant will say, but this was litigated at the Land Use Board of Appeals in 2020, and they said the city is given leniency in applying its own code.

Yes, and now, after seven years, it's time to uphold the plain meaning of the code, get tough, void the permits, and end the charade that has been acted out in this chamber so many, many times before.

Delivered orally on January 10, 2023

APPEALANT TESTIMONY
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From: Penny Suess, 834 Deady St., Port Orford  
*penny@net-gain.us*

Date: April 13, 2023

To: Port Orford City Council, via Gary Milliman, City Administrator Pro Tem,  
 City of Port Orford (*gmilliman@portorford.org*)

Re: Appeal of Port Orford Planning Commission Extension of CUPs 2016-02 and 2016-03

To Mayor Cox and Members of the Council:

Following is the appellant's statement **in opposition to extending these conditional use permits** for a pump station and pipeline proposed to deliver recycled wastewater from the City of Port Orford's treatment facility to the proposed Pacific Gales Golf Course.

**Background:** The pipeline CUPs were granted to Elk River Property Development (ERPD) in 2017. One-year extensions were approved in 2018, 2019, 2020, and 2022. The Planning Commission's 2020 approval was appealed to the City Council, and the Council's decision to uphold was appealed to the Land Use Board of Appeals (LUBA). LUBA affirmed the Council's decision on a technicality in January 2021.

LUBA held, in essence, that Port Orford may interpret its Municipal Code as it pleases. The applicable language of POMC 17.32.060 (quoted in the notice of this hearing) is open to interpretation because multiple one-year extensions are not specifically prohibited. But neither are one-year extensions required, either by the POMC or the LUBA decision. **Port Orford may at its sole discretion refuse to extend these CUPs yet again.**

But restricting deliberations on this appeal to the few words in the Municipal Code regarding conditional use extensions is far from enough scrutiny. There are many additional factors that the Council must consider to arrive at its best decision.

**This 2023 extension is the fifth to be requested in the last six years, yet no construction has taken place** on either the pipeline or the golf course, and ERPD has failed to complete permitting for the application of wastewater on leased farmland north of the City. The Recycled Water Use Permit must itself go through a public hearing process before it is finalized. The Department of Environmental Quality (DEQ) has not indicated that the permit is ready for that step.

**Why has there been no construction?** After more than six years, it is fair to ask, Is there some undisclosed reason that ERPD cannot obtain the mandated DEQ permitting? If the golf course is no longer viable because recycled water for irrigation cannot be used, then no further pipeline CUP extensions can be granted.

**Is there no progress on construction because there is no investment funding?** Has the recycled water permit been slow-walked in order to divert attention from that fact? Who are the principals

APPEALANT TESTIMONY
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in the golf course enterprise? Who are the major investors — if any? We know less about the supposed golf course backers than the City will be requiring of STR owners in the new STR regulations! It is reasonable to ask and receive a full explanation of all issues and circumstances before approving another time extension for a pipeline to serve a project that is apparently dead.

**Are all other approvals still in effect?** What about the ODOT permit? ODOT is currently constructing major Highway 101 improvements. In one alternative, this pipeline is proposed to be suspended from the highway bridge north of town. Has anything changed with ODOT planning or requirements in the last six years that would affect construction of the pipeline?

**Is ERPD's lease agreement for the Knapp farmland still in effect?** Has Port Orford ever seen the lease agreement? Is it on file?

**Has ERPD replaced the original pipeline engineer,** Stuntzner Engineering of Coos Bay, which no longer offers engineering services (per ERPD's extension request dated December 16, 2021)? What does that mean for the plans submitted? Who is the new engineer? Is it Civil West Engineering? If so, will that create a real or perceived conflict of interest, because of Port Orford's contract with Civil West for the design phase of our water system infrastructure upgrades?

**What about Port Orford's failing water and wastewater infrastructure?** So much has changed since 2016! Does the Council know if Port Orford could provide all of the treated water needed to fulfill its contractual obligations under the agreement with ERPD? Is the NPDES permit that authorizes a second sewer outfall to serve the golf course still in effect? If so, what has it cost the city to renew this permit regularly?

**Could the City spare public works staff to coordinate with the pipeline engineers on the project?** How much time, materials, and manpower would the City need to supply? What improvements or changes would be needed to the City's wastewater treatment plant? What if the pipeline or pump station construction coincided with the infrastructure improvements that would be undertaken if Port Orford receives the BRIC grant?

A wastewater pipeline leading miles offsite to a proposed golf course only ever made sense theoretically. On paper it may sound good, but practically there are too many unknowns. It's reckless for Port Orford to keep these conditional use permits wide open when the longterm effects on the City are not fully considered. Yet year after year, ERPD comes back and asks the City to continue to accept agreements that were negotiated long ago, without any real progress report or serious modifications that would be expected for such a complex project continuing over time.

**What are the liabilities for Port Orford** in allowing portions of this private pipeline to be built on land zoned 8-PF, which is "designed to identify and reserve publicly owned areas for the development of public facilities and service"? The City will at some point be required to accept ownership of the pump station and pipeline components within its boundaries. That's in the CUPs. But will the City be responsible for the entire length of the pipeline, through the UGB and then through all of the private land between the UGB and the proposed (but not yet permitted) irrigation facilities at the proposed golf course?



In case of a pipe failure, can ERPD be depended on to assume responsibility for damages, or will they default, leaving Port Orford on the hook? What if the pipeline is built, but the golf course is never built, or fails? Who is responsible? The CUPs state that Port Orford will accept ownership of pipeline components located in the City's 8-PF zone. But does this reflect an actual, legitimate public agreement, vetted and passed by the City Council? Where is such a document? Critical portions of the pipeline cross wetlands and Garrison Lake. This adds significant liability in case of leaks or failure. And of course, Garrison Lake is officially a secondary drinking water source for Port Orford.

**Curry County requires an initial fee of \$2,000** to accept and process a CUP application, then \$500 for each renewal. Has ERPD ever paid the city a cent for its permits? For its renewals? Why has Port Orford not collected appropriate fees to cover the costs for permits, staff time, and other expenses connected with administering these conditional uses? And with two CUP renewals requested, ERPD would owe two renewal fees.

**What is ERPD's bigger plan, and what Port Orford resources would be involved?** Does ERPD want to build a housing development in the Urban Growth Boundary (UGB)? Or on the Knapp Ranch? Or on the land around the old dump that they lease from the County? Will ERPD seek to use both of its pipeline routes, one to the proposed golf course with recycled water, and one with drinking water to the workforce housing (or condo development?) that it already has tentative approval for with Curry County? These are reasonable questions, and they should be asked. The City needs to reassess whether it can serve the golf course's water demands for irrigation — or any other reason.

I am concerned that this water infrastructure project, which is being “cherry-stemmed” into the UGB and beyond, will obligate Port Orford to development over which it has no control. Recent Curry County zoning changes that enable more intensive development may spur a kind of land rush outside the cities. Already, applicants are filing applications for short-term rentals in the City's northern UGB. Continuing this pipeline, or pipelines, leaves an opening for the project to expand into something well beyond the original application.

**It is obvious that there are many unresolved issues** with these extension requests. I urge Council to continue this hearing for 30 days and leave the record open for additional comment. You need this time to review all of the relevant documents (which you do not have in front of you), complete your due diligence, and justify your final decision to the water ratepayers and City taxpayers — the citizens of Port Orford.

**Building a golf course outside the City will not shower economic benefits on us**, yet this belief seems to be the basis for past extensions. It's time to be more skeptical of such claims.

Port Orford's future success cannot be based on wishing and hoping. Consider the facts and weigh them carefully. The City's sustainability depends on decisions this Council will make.

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**From:** NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov>  
**Subject:** RE: Knapp Ranch golf course update  
**Date:** April 18, 2023 at 2:21:53 PM PDT  
**To:** Cameron La Follette <cameron@oregoncoastalliance.org>

Cameron,

My apologies! I did hear back from my staff and we have not received anything.

Ranei

Ranei Nomura  
Water Quality Program Manager  
DEQ Western Region  
503-378-5081

-----Original Message-----

**From:** Cameron La Follette <cameron@oregoncoastalliance.org>  
**Sent:** Tuesday, April 18, 2023 2:15 PM  
**To:** NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov>  
**Subject:** Re: Knapp Ranch golf course update

Hi Ranei,

As I have not heard back from you, does that mean that you have not heard further from ERPD since you last heard from them in early February? If they have contacted you, and for what purpose, please let me know.

Many thanks for your assistance,

Cameron

On Apr 7, 2023, at 7:25 AM, NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov> wrote:

Cameron,

Early February was the last time I heard from Troy. He was working to get the conditional use permit extended and wanted to know the status of the permit application (still active but pending). I haven't heard back since. Back in February we didn't receive anything but let me check to see if anything has come in without my knowledge.

Ranei

APPLICANT TESTIMONY

Ranei Nomura  
Water Quality Program Manager  
DEQ Western Region  
503-378-5081

-----Original Message-----

From: Cameron La Follette <cameron@oregoncoastalliance.org>  
Sent: Thursday, April 6, 2023 8:23 PM  
To: NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov>  
Subject: Re: Knapp Ranch golf course update

Hi Ranei,

Has there been any change in the communication with the applicant (Pacific Gales), or materials submitted, since your last email to me in January?

Thanks,

Cameron

**From:** NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov>  
**Subject: RE: Knapp Ranch golf course update**  
**Date:** January 25, 2023 at 6:58:47 PM PST  
**To:** Cameron La Follette <cameron@oregoncoastalliance.org>

Cameron,

I talked with my recycled water use specialist, Steve McMillan. He spoke with the Pacific Gale representative in late December about revisions needed to the plan but has yet to receive an updated version.

Ranei

-----Original Message-----

From: Cameron La Follette <cameron@oregoncoastalliance.org>  
Sent: Tuesday, January 24, 2023 2:22 PM  
To: NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov>  
Subject: Re: Knapp Ranch golf course update

Hi Ranei,

APPLICANT TESTIMONY
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Okay, many thanks. Details about what is (or is not) happening would be helpful.

Thanks again,

Cameron

On Jan 24, 2023, at 2:20 PM, NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov> wrote:

Cameron,

We heard from the developer last October but I don't have details. Let me check and I will get back to you.

Ranei

Ranei Nomura  
Water Quality Program Manager  
DEQ Western Region  
503-378-5081

-----Original Message-----

From: Cameron La Follette <cameron@oregoncoastalliance.org>  
Sent: Tuesday, January 24, 2023 2:15 PM  
To: NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov>  
Subject: Re: Knapp Ranch golf course update

Hi Ranei,

Writing to you again, now that I believe you are back in the office, to request information on the Knapp Ranch golf course proposal, and their request for a wastewater reuse permit. Has there been any movement or change in the last year, since I wrote you in early 2022?

Many thanks,

Cameron

-

Cameron La Follette  
Oregon Coast Alliance

On Feb 2, 2022, at 5:39 PM, NOMURA RANEI \* DEQ <RANEI.NOMURA@deq.oregon.gov> wrote:

We have not heard anything from the applicant. I will ask my inspector to check in but it's been quiet.

APPLICANT TESTIMONY

Ranei

-----Original Message-----

From: Cameron La Follette <cameron@oregoncoastalliance.org>

Sent: Wednesday, February 2, 2022 4:41 PM

To: NOMURA Ranei <ranei.nomura@state.or.us>

Subject: Re: Knapp Ranch golf course update

Hi Ranei,

I am checking back in on the Knapp Ranch golf course permit again, having not done so for a year. I know you said you would let me know if any movement; but a year is a long time, so I thought I would double-back on this.

Thanks for any update,

Cameron

-

Cameron La Follette  
Oregon Coast Alliance

On Jan 6, 2021, at 4:59 PM, NOMURA Ranei <ranei.nomura@state.or.us> wrote:

Thanks for checking in! We've been busy so it hasn't been on my radar screen but I just got an update from the permit writer today so your timing was good. We aren't actively bugging them like we were a while ago because we have enough to do. If I see any movement, I will let you know.

----- Original message -----

From: Cameron La Follette <cameron@oregoncoastalliance.org>

Date: 1/6/21 4:24 PM (GMT-08:00)

To: NOMURA Ranei <RANEI.NOMURA@state.or.us>

Subject: Re: Knapp Ranch golf course update

Okay, many thanks for the update. I appreciate your getting back to me quickly so I can keep track of this project.

All best,

Cameron

On Jan 6, 2021, at 4:16 PM, NOMURA Ranei <RANEI.NOMURA@state.or.us> wrote:

APPLICANT TESTIMONY
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We are still in limbo. They need to update their recycled water use plan and we haven't heard from them in a while so we aren't actively working on their permit.

From: Cameron La Follette <cameron@oregoncoastalliance.org>  
Date: 1/6/21 3:43 PM (GMT-08:00)  
To: NOMURA Ranei <ranei.nomura@state.or.us>  
Subject: Re: Knapp Ranch golf course update

Hi Ranei,

Time for another update! I did not reply for ten months to your email because the public health restrictions all hit about a week later, and there were enough other things to think about.

Can you please let me know the status of the Elk River Development Company's request for a wastewater reuse permit for the proposed golf course at Knapp Ranch? Is the application moving at all - is there any kind of target date for a draft permit being sent out for public review? If the application is currently stalled for lack of the required information, please let me know that as well.

Thank you,

Cameron La Follette  
Oregon Coast Alliance

On Mar 6, 2020, at 3:37 PM, NOMURA Ranei <ranei.nomura@state.or.us> wrote:

Cameron,

We heard that the applicant had gotten more funding a little while ago and would update the recycled water use plan right away but it never happened. I'll ask my inspector to check again and let you know.

Ranei

Ranei Nomura  
Manager  
Water Quality Permitting and Compliance  
DEQ Western Region  
503-378-5081

From: Cameron La Follette <cameron@oregoncoastalliance.org>  
Sent: Friday, March 6, 2020 3:29 PM

APPLICANT TESTIMONY

To: NOMURA Ranei <ranei.nomura@state.or.us>  
Subject: Knapp Ranch golf course update

Hi Ranei,

I have not checked in with you about the Knapp Ranch golf course application before DEQ for a year now. Could you please update me on the status of the Elk River Development Company application before DEQ for a wastewater reuse permit: is the application complete or nearing completion, and is there any kind of target date for the public comment period on a draft DEQ permit?

Thank you,

Cameron

-

Cameron La Follette  
Oregon Coast Alliance

On Jan 10, 2019, at 4:17 PM, Cameron La Follette <cameron@oregoncoastalliance.org> wrote:

Hi Ranei,

Thank you for letting me know the current status of this application.

Cameron

On Jan 8, 2019, at 4:54 PM, NOMURA Ranei <ranei.nomura@state.or.us> wrote:

Cameron,

Paul is still waiting on plan revisions. We checked in with the applicant about a month before the end of the year and heard we'd be getting revisions soon but nothing came. We will check again at the end of the month.

Ranei

Ranei Nomura  
Water Quality Manager  
DEQ Western Region  
503-378-5081

From: Cameron La Follette <cameron@oregoncoastalliance.org>  
Sent: Tuesday, January 8, 2019 4:46 PM  
To: NOMURA Ranei <NOMURA.Ranei@deq.state.or.us>; KENNEDY Paul  
<KENNEDY.Paul@deq.state.or.us>

APPLICANT TESTIMONY



Subject: Knapp Ranch golf course update

Hello Ranei,

Could you please give me an update on the wastewater reuse permit for the golf course proposed for Knapp Ranch in Curry County? I have not heard from your office for a while, and would like to know where in process the permit (and associated Wastewater Reuse Plan) is at this time.

Thank you,

Cameron

-

Cameron La Follette  
Oregon Coast Alliance

APPLICANT TESTIMONY



April 19, 2023

City of Port Orford City Council 555 W. 20<sup>th</sup> St.  
Port Orford, OR 97465

Re: Appeal of Planning Commission Decision to Grant Time Extension for Conditional Use Permit 16-02 and 16-03, concerning Elk River Property Development's permit for use of recycled wastewater.

Via email: [gmilliman@portorford.org](mailto:gmilliman@portorford.org), [jharrison@portorford.org](mailto:jharrison@portorford.org)

Dear Members of City Council,

Oregon Coast Alliance is an Oregon nonprofit corporation whose mission is protection of coastal natural resources and working with coastal residents to enhance community livability.

Before you at a hearing on April 20, 2023 will be Elk River Property Development (ERPD) seeking yet another time extension for their permits to develop a pump station and pipeline for delivery recycled wastewater to Knapp Ranch, outside the urban growth boundary, for a golf course.

It is time City Council took a serious stance against this travesty, and ended the cycle of apparently endless requests for time extension by the developers. ERPD has requested many time extensions, yearly beginning in 2018, and the city has granted them without question or discussion.

Oregon Coast Alliance began requesting information from the Department of Environmental Quality (DEQ) in January of 2019 concerning any progress the applicants made on the required DEQ permits. The correspondence is attached. Note that in the *entire* four years from January 2019 to January 2023 there has been no movement by ERPD, no work on the project, no submission of required information. Indeed, DEQ in January 2021 informed ORCA that the agency was no longer "actively bugging" the applicant as before.

The sole activity DEQ mentions is having spoken with ERPD in December 2022 about needed revisions – but DEQ has received nothing from the applicant since, through April 18, 2023. Except one telling request: Troy Russell of ERPD emailed DEQ asking, on February 3, 2023, for DEQ to write the City Council and state "our permit remains active, and in-process."

In other words, ERPD would like the agency to confirm that a moribund permit application, on which nothing has been done since some time in 2018, could still be considered "active," even though the

APPLICANT TESTIMONY

applicant has not provided the necessary information DEQ requires to move ahead with the permit application for recycled water usage.

This permit application is only “active” in the most marginal way, in that no one has affirmatively canceled it. A better description would be that this application is moribund, having lain without activity for some five years, four of which the ORCA correspondence can document. The attachment with the documentation to April 18, 2023 is submitted along with this letter.

Even if DEQ complies with the ERPD request and tells Council the permit is, technically, “active,” that says nothing about the amount of work on it the company has done since January 2019, which is zero.

It is time for Council to end this charade, and grant no more time extensions to this moribund project. ERPD has neither undertaken nor completed work on the ground, or on the DEQ permit, for many years.

Please place this letter, and the attachment, in the record for this matter.

Thank you,

*/s/ Cameron La Follette*

Cameron La Follette

Oregon Coast Alliance

APPLICANT TESTIMONY

## Elk River Property Development llc.

December 15, 2022

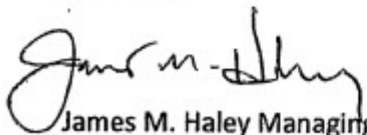
### Re: Conditional Use Permits 16-02 & 16-03

Dear, Chair Nieraeth and Planning commission members,

I am writing to request an additional extension of time for the land use contained in CUP 16-02 and 16-03 approved by the planning commission on 4/20/2017

The additional time is necessary as we work together with DEQ to move towards an eventual hearings process. Thank you for your continued support as we move forward with this project.

Sincerely,



James M. Haley Managing Partner  
Elk River Property Development llc.

BACKGROUND DOCUMENT

# Elk River Property Development llc

February 7, 2023

Port Orford City Council  
555 W. 20<sup>th</sup> Street  
Port Orford, Oregon 97465

Re: Appeal of Conditional Use Permits 16-02/16-03

Dear Mayor and Councilors:

Please accept this letter on behalf of Elk River Property Development LLC stating our opposition to this appeal.

Just to be clear, Mrs. Suess’s appeal is not about the pump station and pipeline, rather it is about trying to delay a golf course. The golf course has a vested permit as confirmed in LUBA decision OREGON COAST ALLIANCE, Petitioner, vs. CURRY COUNTY, Respondent, and ELK RIVER PROPERTY DEVELOPMENT LLC, Intervenor-Respondent. LUBA No. 2018-021.

Below are a few highlights on the timeline thus far:

In October of 2015 the City of Port Orford issued a request to DEQ for modification to their National Pollutant Discharge Elimination System (NPDES) permit allowing for a secondary outfall.

On August 3, 2016 a pre-application meeting took place at city hall to discuss what would eventually become CUP 16-02 & 16-03. On February 2, 2017 a public hearing was held a final order from the planning commission was completed on April 20<sup>th</sup> 2017. On May 4<sup>th</sup> 2017 that decision was appealed by the Oregon Coast Alliance to the City Council and a final order was issued June 16<sup>th</sup> 2017.

In the March 15, 2018 city council meeting, Councilor Auburn made a motion; “To provide the city’s treated effluent to Elk River Property Development LLC for irrigation of the Pacific Gales Golf Course, at no cost to ERPD. With flow recommendations from future engineering work to maintain the current ocean outfall viability, and in turn, the ERPD will allow the City of Port Orford the ability to cross their property adjacent to the sewer treatment plant with water and sewer infrastructure at no cost to the city for the use of the property for the city’s infrastructure. This motion also directs city staff to work with the engineers to move forward with a secondary outfall project, including the ability to accommodate all outfall, should the ocean outfall be no longer viable”. This motion passed 4-3.

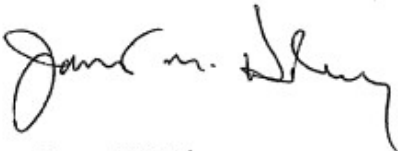
APPLICANT TESTIMONY

Mrs. Suess in 2020 appealed the Planning commission decision to the City Council and the City Councils decision to LUBA. We receive possibly the shortest decision ever written by LUBA contained in PENNY SUESS, Petitioner, vs. CITY OF PORT ORFORD, Respondent, and ELK RIVER PROPERTY DEVELOPMENT, LLC, Intervenor-Respondent. LUBA No. 2020-076.

Elk River Property Development LLC continues to have an active application before the Department of Environmental Quality (DEQ) this was confirmed by planning commission member Thelen. In the January planning commission meeting, Commissioner Thelen confirmed that he had a phone conversation with DEQ and they stated that the application was active and they were working with Elk River Property Development LLC. The two CUP's 16-02 and 16-03 have conditions attached to the permits. "Condition N: No work may commence in any way on any pipeline and pump station until until all local, County, and State permits are in hand." "Condition V: Any approved Conditional Use Permit shall be void after one year unless substantial construction has taken place as per Section 17.32.060 of the Zoning Ordinance. Any request to extend authorization shall be provided to the Planning Commission prior to the one year period.

Elk River Property Development LLC, for the reasons stated above, respectfully request that you affirm the decision of the planning commission and the prior decision of LUBA as we work to finalize the DEQ permit.

Sincerely,



James M. Haley  
Managing Partner, Elk River Property Development llc.

APPLICANT TESTIMONY

## City of Port Orford – City Council Agenda Documentation Staff Report

**SUBJECT:** Public Hearing for appeal of Planning Commission approval of request for extension of CUP 16-02 and 16-03

**DATED:** April 11, 2023

**HEARING DATE:** April 20, 2023

**BACKGROUND:**

On January 10, 2023 the Planning Commission approved a request for an extension of CUP 16-20 and CUP 16-03 which were originally approved in April 2017 and granted yearly extensions thereafter. An appeal of that decision was received by the City.

**APPLICABLE CODE:**

Port Orford Municipal Code, Chapter 17.32, Conditional Uses, Section 17.32.060 Time On a Permit for Conditional Uses states the following:

*Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the planning commission may extend the authorization for an additional period not to exceed one year, upon written application to the planning commission.*

One-year extensions have been granted for 2018-present to allow the permits to remain active and allow the applicant to continue to work through the permitting process at the state level.

Prior appeal of approved extensions have been litigated through the Land Use Board of Appeals in which it was ordered that the City was within its rights to interpret the code to allow multiple extensions of time on Conditional Use Permits under its present language.

The only issue before the Council at this hearing is whether to affirm the Planning Commission decision in approving the extension(s) or overturn the Planning Commission decision and deny the requested extension(s). Discussion of the underlying permit and the merits thereof are not appropriate as those subjects were handled at the hearing upon original approval. Any discussion had at this hearing should be relevant to the applicable code provision set out above.

In June 2020 the Council approved an extension of these permits based upon the following findings which are still applicable to the request. These findings were appealed to the Land Use Board of Appeals and the City's decision was upheld. These are the same issues the appellant has brought this appeal under now. In summary those findings are as follows:

1. The request for an extension was timely filed by the applicant for an extension of CUP 16-02 and CUP 16-03.

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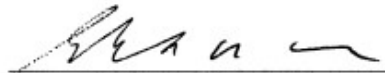
2. The City has the authority to interpret its code. The City’s interpretation of the applicable code section is that the City has the authority to grant extensions for the period of one year per extension. There is no limitation on the number of extensions which may be granted so long as the duration of each does not exceed one year.
3. The granting of extensions is not contingent on “substantial construction”. If “substantial construction” takes place, a request for an extension is unnecessary.
4. The City’s interpretation is consistent with the previous decisions in this matter granting multiple extensions for a period of one year each.

**FINDINGS:** The applicant has submitted draft Findings for Council consideration. The Council may adopt those findings in total, adopt them in partial or create their own findings relevant to the applicable criteria set out in POMC 17.32.060.

**POTENTIAL MOTION:**

“I move to (uphold/overturn) the Planning Commission decision to grant a one-year extension of CUP 16-02 and CUP 16-03 based upon the findings outlined (in this staff report/submitted by the applicant/as set out the by Council).”

**SUBMITTED BY:**

  
\_\_\_\_\_  
Shala M. Kudlac, City Attorney

The City Administrator Recommends that the City Council make a preliminary decision and direct staff to prepare findings for final action at the next meeting.



City Council Findings and Conclusion on Appeal by Penny Suess  
CUP 16-02 and 16-03  
Planning Commission Decision Date: January 10, 2023

Findings:

1. On January 10, 2023, the Port Orford Planning Commission approved a one-year extension of two CUPs authorizing pipelines to transport recycled water from the city's wastewater treatment plant to a planned golf course. The golf course was approved by the County; LUBA has found that the right to complete the golf course has vested.
2. The original approvals were in 2017, and previous similar one-year extensions have been approved by the City in successive years. The third request, filed in 2020, was appealed to the Land Use Board of Appeals, which affirmed the extension decision and, more importantly, confirmed that under the city code these CUPs may be extended one year at a time without limitation on the number of extensions. See *Suess v. City of Port Orford*, \_\_\_ Or LUBA \_\_\_ (No. 2020-076, Jan. 22, 2021).
3. The extension approved by the Planning Commission on January 10, 2023, has been appealed by Penny Suess to the City Council.
4. An appeal hearing before the City Council was properly noticed, assuming it is a land use decision of the City.
5. The appellant did not explain the basis for the appeal in connection with filing the appeal.
6. Under the code provisions that apply to this extension, the issue of whether to grant any particular one-year extension is completely within the discretion of the City. As explained in the LUBA decision, the code includes standards for determining when a project has started and no further extensions are needed. However, it does not state mandatory standards for an extension of time to start a project.
7. Construction has not started on this pipeline project as of this date. Therefore, another one-year extension is needed in order to keep the original CUP approvals active.
8. Based on developments to date, the City and the applicant expect that when the applicant's golf course north of the City is constructed, it will use the city's treated effluent for irrigation, and the irrigation water will be conveyed from the city treatment facility to the golf course via the pipeline approved by the City in these CUPs. The County has also approved a pipeline location on county land.
9. The original CUP approval at issue here includes Condition N, which requires DEQ permitting prior to the start of construction. Condition N says: "No work may commence in any way on any of the pipeline and pump station until all local, County and State permits are in hand."
10. DEQ approval is still needed. The applicant has an active application before the DEQ, as was confirmed with the DEQ by planning commission member Thelen. The DEQ is working with the applicant to finalize the exact footprint of the golf course lagoon size and location as well as the equipment package to be used to both deliver the effluent water to the lagoon and the equipment package to distribute that water. Once those plans are finalized the DEQ can conduct its health and safety review.

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Conclusion:

Based on all of the above, the City Council concludes that another one-year extension of the CUPs is warranted and is in the interest of the City.

The appeal is denied; the decision of the Planning Commission is affirmed.

BEFORE THE PLANNING COMMISSION

CITY OF PORT ORFORD

In the matter of Planning Commission file )  
CUP 16-02 for conditional use approval to )  
develop a pump station and pipeline for )  
the purpose of carrying effluent to the )  
proposed Pacific Gales Golf Course, known )  
as. the "preferred route."

FINAL ORDER

Findings of Fact and Conditions

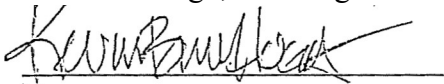
This matter came before the Planning Commission on an application by Elk River Property Development, LLC, seeking approval of a Conditional Use Permit to develop inside the city limits a pump station and pipeline for the purposes of transporting recycled wastewater from the city's wastewater treatment plant to the proposed Pacific Gales golf course. The Applicant was represented by Stuntzner Engineering & Forestry, LLC and the Law Office of Bill Kloos, PC.

Following procedures as required by City Ordinance and Oregon law, the Planning Commission voted to approve the application with conditions on March 14, 2017, and voted to approve the Findings and specific Conditions on April 11, 2017.

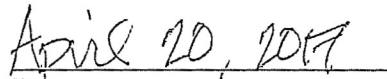
An appeal or ruling of the Planning Commission may be appealed to the City Council within 15 days after the Planning Commission has rendered its decision. Written notice of an appeal shall be filed within the fifteen-day period, and if the city council does not designate the action or ruling for hearing, the decision of the planning commission shall be final. Appeals are addressed in Section 17.08.040 of the Municipal Code, Title 17, Zoning. The date of decision by the Planning Commission is the date upon which this Final Order is signed, as set forth in Section 17.04.160.

NOW, THEREFORE, THE CITY OF PORT ORFORD PLANNING COMMISSION HEREBY ORDERS that Application File No. 16-02 is approved with conditions, based on the findings outlined in Exhibit "A" attached hereto and incorporated by reference.

Ifevin McHugh, Planning Chair

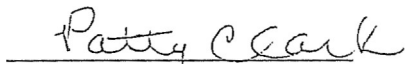


Name



Date

ATTEST:



Patty Clark, Planning Assistant

BACKGROUND DOCUMENT

EXHIBET A

CITY OF PORT ORFORD PLANNING COMMISSION  
FINDINGS OF FACT, CONCLUSIONS AND CONDITIONS  
CUP 16-02: REQUEST FOR A CONDITIONAL USE PERMIT TO DEVELOP PUMP AND  
PIPELINE FOR PURPOSE OF DELIVERING RECYCLED WASTEWATER.

**APPLICANT'S PREFERRED ROUTE**

Property Location: T.33, R.15, S.05BD  
Tax Lots 1300 (municipal waste water facility) Tax  
Lot 1011 (effluent pump station) Recycled effluent  
line location:  
12<sup>th</sup> Street East to Idaho Street  
Idaho Street North to Madrona Street  
Madrona Street East to Hwy. 101  
Hwy. 101 North to Paradise Point Road (City Limits)  
Property Owners: City of Port Orford, Tax Lot 1300  
William Rebhahn, Tax Lot 1011

Applicant: William Rebhahn and Elk River Property Development, LLC

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## SUMMARY OF PROPERTY AND APPLICATLON

The applicant requested approval for the development of a waste water effluent pump station and the installation of private pipeline that would transport recycled wastewater from the City of Port Orford treatment plant to the proposed Pacific Gales Golf Course.

The pump station will be developed on a private city lot (Tax Lot 1011) that is located directly adjacent to and north of the municipal treatment plant. The pipeline through the City will be installed primarily within public rights-of-way, with the exception of that portion extending from the pump station, through the privately owned lot, to the adjacent public right-of-way (12<sup>th</sup> Street). There will also be a feed line between the treatment plant and the pump station. The routing for the pipeline is attached as Exhibit "B" in the application, which is incorporated herein by reference.

As shown on the Applicant's site plan, the pump station will be sited at the rear portion of the private lot, directly adjacent to the City Waste Water facility on the south and adjacent to 12<sup>th</sup> Street on the north. Specific conditions of approval, described within this document regulate the landscaping, dimensions, and design characteristics of the facility.

The route of the pipeline crosses multiple zoning districts, each with its own set of allowed uses. The zones that will be crossed by the pipeline include the 8-PF zone (public facilities and parks); the I-R zone (residential zone); the 2-R zone (residential zone) and the 4-C zone (commercial zone), the 6-CD zone (controlled development) and the 5-1 zone (industrial). The approval standards are varied amongst these zoning districts. Each different zone is addressed below.

The applicant requested that the entire proposal be reviewed under the CUP standards, despite the lack of clarity in the code as to whether the underground portion of the development would be regulated as a CUP. Because specific elements of the proposal require review under the CUP standards (such as the pump station in the I-R zone) the applicant elected to subject all elements of the proposal, including the pipeline, to the CUP approval standards.

The development will be located inside of public right-of-way, except for where the pipeline will cross private property between the city's wastewater treatment plant and the public right-of-way.

### 1. APPLICABLE STANDARDS AND CRITERIA .

As indicated in the notice of hearing, the application was reviewed under the following provisions of the City of Port Orford Municipal Code, Title 17 - Zoning:

Chapter 17.12.010, C, 5 - Conditional Uses Permitted (Utility facility, including substation of pumping station)

Chapter 17.12.020, C, 6 Conditional Uses Pennitted (Utility facility, including substation of pumping station or private generator)

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Chapter 17.12.030, C, 3 — Conditional Uses Pennitted (Utility facility, including substation of pumping station or private generator)

Chapter 17.12,040, B, 16 — Uses Permitted Outright (Utility facility, including substation or pumping station or private generator)

Chapter 17.12.050, C, 1 -- Conditional Uses Permitted (Public Utility facilities)

Chapter 17, 12.070, B, 3 — Uses Pennitted Outright (Public utilities and services)

Chapter 17.32 — Conditional Uses including Chapter 17.32.050 Additional standards governing conditional uses, Subsection A, Conditional Uses, Generally; D, 1-4 .

Chapter. 17.08 — Section 17,08.020 Enforcement; Section 17.08.030 Authorization of similar uses.

Because the development will cross multiple zoning districts, each with its own zoning regulations, this findings document will address the applicable standards for each zoning district separately.

Findings addressing approval standards in the Public Facilities and Parks zone (8-PF)

Municipal Code, Title 17 Zoning

Section 17.12.070, Public facilities and park zone, (8-PF)

A. Purpose of Classification. The 8-PF zone is designed to identify and reserve publicly owned areas for the development of needed public facilities and service,

B. Uses Permitted Outright. In an 8-PF zone, the föllowing uses and their accessory uses are permitted outright:

3. Public utilities and services;

Findings: The pipeline will originate in the Public facilities, 8-PF zone. Public utilities and services, and their accessory uses are permitted outright uses in the 8-PF Zone. The portion of the pipeline that will connect the existing wastewater treatment plant to the applicant's pump system will be approximately 50 feet long. The applicant stated its intent that the portion of the pipeline to be built on the site of the city's wastewater treatment plant will become a component of the city's existing treatment plant, owned by the city, subject to approval of the City Council, In addition, the applicant has stated it will be responsible for all costs associated with the design, construction, and ongoing maintenance of this component that will be added to the treatment plant. The City Council has amended its wastewater treatment plant facilities plan to adopt a policy supportive of recycling the wastewater, and this connection between the treatment plant and the adjoining private property is necessary for the recycled wastewater to reach the privately owned pump facility and the rest of the pipeline.

The portion of the pipeline that will be added to the city's existing wastewater treatment plant is a use that is permitted outright in the 8-PF zone and it is appropriate to require that construction of the pipeline route and all connections with the City's wastewater facility and site will be completed in compliance with Oregon's Standard Specifications for Construction (A-PWAODOT), and approved by the City Engineer and/or the Oregon Department of Transportation depending upon jurisdiction. In addition, the Planning Commission has imposed a condition requiring the applicant to obtain an easement to allow access to the city's treatment plant property, and to any necessary connections to the City wastewater site and system.

The applicant has described the necessary improvements that will be developed in the 8-PF zone, and the applicant has stated its intent to have all decisions within this zone remain under the exclusive jurisdiction of the City of Port Orford, with no financial burden to the City.

The proposed pipeline can originate in the 8-PF zone provided that the City accepts ownership of the pipeline components that originate there. It is appropriate to condition the use on this assumption.

#### Findings addressing approval standards in the Residential Zone (I-R)

##### Section 17.12.010 Residential zone (I-R)

*A. Purpose of Classification. The I-R zone is designed to be applied to residential areas where dwellings are appropriate.*

*C. Conditional Uses Permitted. In a I-R zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:*

*5. Utility facility, including substation or pumping station or private generator.*

Findings: After the wastewater feed line leaves the municipal wastewater treatment plant, it will cross into the I-R zone and enter the private Tax Lot 1011. Approval of the application gives the applicants the rights to place the pipe and the pump station located on Tax Lot 1011. The pump station on Tax Lot 1011 will then charge the force-main that will cross the remainder of the lot before entering the public right of way along 12 St.

The pipeline will pass through the residential zone (I-R), which allows a pump station subject to a conditional use permit under Chapter 17.12.010 (C) (5), and subject to Chapter 17.32. Pipelines emanating from the proposed pump station will be private utility facilities.

The Planning Commission finds that the pipeline and pump station are of the same general type as uses specifically listed. There is no reference in the code to private pipelines. It is appropriate to require that construction of the pipeline route will be completed in compliance with Oregon's Standard Specifications for Construction (APWA-ODOT) and approved by the City Engineer and/or the Oregon Department of Transportation depending



upon jurisdiction. Any road surface that is displaced will need to be resurfaced to City Standards.

In light of some uncertainty as to whether the CUP criteria would apply to just the pump station, or to both the pump station and the pipeline, the applicant requested the Planning Commission to apply the CUP approval standards to the entire proposal, including the pump structure and the entire pipeline within the jurisdiction of the City of Port Orford.

#### Findings addressing approval standards for conditional use permits

##### 17.32.010 Authorization to grant or deny conditional use.

Uses designated in this title as conditional uses may be permitted, enlarged or altered in accordance with the requirements of Sections 17.20.020 through 17.20.060. In permitting conditional use, the council may impose conditions in addition to the provisions set for uses within each zone in order to protect the best interests of the surrounding property, the neighborhood or the city as a whole. These conditions may include, but are not limited to, increasing the lot size or setbacks, controlling the location or number of vehicular access points, increasing the street width, limiting the height of buildings to protect the light and air of adjacent properties, increasing the amount of off-street parking or loading, or other provisions necessary to minimize any conflict between the conditional use and the use of adjacent properties.

This provision allows the Planning Commission to impose conditions on a proposed use in order to "protect the best interests of the surrounding property, the neighborhood or the city as a whole" in order to "minimize the conflict between the conditional use and the use of adjacent properties." The pump station will be insulated, fenced, landscaped, and constructed with materials that are compatible with and similar to materials utilized for standard residential development. The entire pipeline will be within the jurisdiction of the City of Port Orford, and entirely underground, so the development will not generate any conflicts with the uses on adjacent properties.

##### 17.32030 Public hearing on a conditional use.

Before acting on a conditional use, it shall be considered by the planning commission at a public hearing. The planning commission or its designated agent shall give notice of the hearing by sending notices by mail not less than ten days prior to the day of the hearing to the property owners within two hundred (200) feet of the exterior boundaries of the property involved and by posting on the official bulletin board at the City Hall a notice not less than five days prior to the hearing. The names for this purpose shall be obtained from [sic] the records of the county [sic] assessor. Failure of a person specified in this section to receive the notice shall not invalidate any proceedings in connection with the application for a conditional use. The commission may continue a public hearing in order to obtain more information or to serve further notice to persons it decides are affected by the proposed conditional use. Agent shall notify the applicant for a

BACKGROUND DOCUMENT

conditional use of the action of the planning commission within five days after a decision has been rendered. (Ord. 278 6.030, 1977)

Findings: Notice of the hearing was provided to property owners, agencies, at the City Hall, and at the Post Office on January 25, 2017 as required by Section 17.32040. Information about the hearing was also posted on the City's website on February 3, 2017.

The applicants are seeking a conditional use permit for the pump station, and the Planning Commission is required to apply some conditions as set forth in Section 17.32 and authorized to provide additional conditions. The Port Orford City Council has authorized the Planning Commission to process conditional uses under Chapter 17.32.030, which states: Before acting on a conditional use, it shall be considered by the planning commission at a public hearing.

#### 17.04.100 Notice.

##### B. Written Notice to Affected Property Owners and Interested Parties.

1. When required to be given, written notice to affected property owners and interested parties shall include the following information:

- a. Date, time and place of hearing;
- b. The type of action being considered, including but not limited to, applications for conditional use permits, variances, or amendments to the zoning ordinance;
- c. A reasonably written description of the location of the subject property, which may include but is not limited to any one of the following: a map, postal address, legal description, or tax map designation.
- d. The nature of the pending issue or proposed use;
- e. A list of the applicable criteria upon which a decision will be based;

*f.* A statement that written comments addressing the findings necessary for a decision may be submitted.

*g.* A statement that failure to raise an issue during a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker and opportunity to respond to the issue precludes appeal on that issue.

h. A general explanation of the requirements for testimony and conduct of the hearing:

i. A statement that the application materials are available for inspection or can be copied at a reasonable cost and staff reports may likewise be inspected seven days prior to the hearing;

*j.* A name of an officer or employee of the city, along with phone number, from whom additional information can be obtained.

2. Written notice shall be mailed to all property owners within two hundred-fifty (250) feet of the external boundaries of the legally described property in the application for all permits and variances.

3. Written notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Department of Transportation as a "public use airport," if the property subject to the zone use hearing is:

BACKGROUND DOCUMENT
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- a. Within five thousand (5,000) feet of the side or end of a runway of an airport determined by the Department of Transportation to be a "visual airport, " or .....5. Property Owners.
- a. For the purposes of this subsection (B)(5), "property owner" is defined as the person identified as the owner of record on the latest adopted tax rolls of Curry County.
- b. Written notice shall be mailed to the property owners identified in subsection (B)(2) of this section. Failure of a property owner to receive written notice shall not invalidate any action taken by the planning commission or city council, if a good faith attempt was made to comply with the requirements of this article for notice. (Ord. 99-05 '2, 1999)

#### 17.04.080 Interpretation

The provisions of this title shall be held to the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this title are less restrictive than comparable conditions imposed by any other provision of this title or of any other city ordinance, resolution or regulation, the provisions which are 11207% restrictive shall govern.

Findings: The applicants provided the listing of property owners to be notified from the current Curry County Assessor's records. Notice was provided to property owners within 250 feet, rather than the 200 feet required by Section 17.32.030. The notice area was increased due to discrepancies within Title 17 of the City of Port Orford. The City complied with all of the applicable requirements of Section 17.04.100 in providing notice for the applications addressed within this staff report. The City followed the more restrictive of the two differing requirements for notice in compliance with Section 17.04.080. Public notice was mailed to property owners on January 20, 2017. The list for notice includes both pipeline routes, and a single notice was utilized to minimize confusion.

#### 17.3240 Notification of public agencies.

For conditional uses within the MA, CD and SO zones, the following agencies shall be notified by mail, no less than ten days prior to the date of the public hearing:

##### A.State Agencies.

1. Division of State Lands;
2. Department of Fish and Wildlife.
3. Department of Environmental Quality;
4. Department of Foresfry.

##### B. Federal Agencies.

1. Army Corps of Engineers;
2. National Marine Fisheries Service; 3.U.S. Fish and Wildlife Service;

BACKGROUND DOCUMENT

C. Other Notification.

1. State Water Resources Department (uses including appropriation of water only).
2. State department of geology and Mineral Industries (mining and mineral extraction only);
3. State department of energy (generating and other energy facilities only);
4. Department of Economic Development (docks, industrial, and port facilities, and marinas 0111)). (Ord. 278 6.031, 1977

Findings: The City requested that the applicants provide a copy of names and addresses of agency personnel and addresses to comply with Section 17.32.040. A copy of the notice that was sent to the property owners was also provided to the agencies more than 10 days prior to this hearing on January 20, 2017.

Section 17.32. OSO Additional standards governing conditional uses

In addition to the standards of the zone in which the conditional use is located and the other standards in this title, conditional uses must meet the following standards:

A. Conditional Uses, Generally.

1. Setbacks. In a residential zone, yards shall be at least two-thirds the height of the principal structure. In any zone additional yard requirements may be imposed.

Findings: The pump building will be the largest structure on tax lot 1011. The lot where the pump station is proposed to be located is currently undeveloped. When the pump structure is built, it will be the "principal structure" for the purposes of measuring setbacks. "

The applicant's materials show the shelter as having a minimum setback of 11.5 feet from the west property line. Under the two-thirds standard, that setback would permit a structure that is over 17 feet in height. The Planning Commission imposed a condition requiring that the pump station structure shall not exceed 17 feet in height.

2. Limitation on Access to property and on Openings to Buildings. The city may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within fifty (50) feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent property.

Findings: The only public access to the subject lot is provided exclusively from 12<sup>th</sup> Street to the north. Access to the building from 12<sup>th</sup> Street will require a permit from the city. As part of this application, the applicant is also requesting that the city permit the applicant to access the southerly portion of the property across the city's existing gravel road at the treatment plant. The access requested will require an easement, which will require approval of the City Council.

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For a conditional use in a residential zone, the City has the authority to limit vehicle access and building openings within fifty (50) feet of residential property, if "the openings will cause glare or excessive noise or will otherwise adversely affect adjacent property." The Planning Commission provided conditions of approval in response to neighbors' concerns that noise would be generated by the pump station.

The applicant stated that entire facility will utilize standard residential lighting and will contain no equipment or structural elements that would cause excessive glare. By following the City's dark sky ordinance, the Planning Commission determined that light overflow to neighboring properties will not occur.

It is appropriate that the Planning Commission impose conditions of approval that will mitigate for any visual impact and noise impacts, including specific requirements for landscaping, fencing, and the appearance of the pump house structure.

Planning Commission members discussed effects of boring and trenching, and potential negative effects on the City's water infrastructure due to old asbestos concrete piping. It is appropriate that DEQ and the City Engineer be involved in any boring and trenching activities to assure that there are no negative effects on the City's water infrastructure or neighboring properties.

3. The city may require assurances to guarantee development in accordance with the standards established and conditions imposed in granting a conditional use.

Findings: The Planning Commission finds that it is appropriate that the City Council require Elk River Property Development to acquire a surety bond to protect the City infrastructure.

D. Communications Transmitter, Receiver, Antenna or Tower, Utility Station, Substation, or Wind Generator.

1. In any residential zone, all equipment storage on the site shall be within an enclosed building.

Findings: The equipment that is utilized in conjunction with the booster pump can be contained totally within an enclosed and fully insulated structure that is constructed with materials similar to those uses in standard residential construction. The applicant has stated the construction will be insulated which will reduce noise, and that the pump house will be approximately 100 feet to the south of the 12<sup>th</sup> St. right of way.

2. The use shall be fenced and provided with landscaping.

Findings: The entire pump station facility will be fenced for security purposes and landscaped as required by the Planning Commission. The property is currently covered with vegetation that will be maintained in undeveloped areas. The pump station will be located approximately 100 feet from 12<sup>th</sup> Street with access provided by a 12-foot driveway. The Planning Commission imposed conditions of approval requiring specific landscaping requirements.

3. The minimum lot size for a public utility facility may be waived on finding by the planning commission that the waiver will not result in noise or other detrimental effect to adjacent property.

Findings: The development is not a public utility facility, and the subject lot size exceeds the minimum lot size established for the applicable residential zone district so no waiver is necessary.

4. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

Findings: The pumping station will be fenced and landscaped, as required. The applicant has agreed to paint the pump house in an earth-tone color and ensure that it is architecturally unobtrusive and shielded with landscaping. The pipeline will be placed underground so there will be no interference with scenic values. Where pipe installation disturbs the soil or pavement surface, right-of-ways will be brought up to city standards. By locating and installing the pipe almost entirely within the public right of way, the applicant will be using routes that are already dominated by pavement.

As noted in public testimony, one "scenic value" that could be impacted by the development is the pipeline's potential impact on tree roots. The applicant has agreed to follow best practices, as outlined by an Oregon State University Extension Bulletin, and it is appropriate to include an arborists report in order to place pipe below critical root zones, without impacting tree health.

- G. Controlled Development Overlay Zone. The following criteria and conditions are applied to specific uses and activities in the controlled development overlay zone (6-CD).

This standard is addressed below, in the section of the application that addresses the portion of the proposal that crosses through the controlled development zone.

#### Findings addressing approval standards in the Residential Zone (2-R)

##### 17.12.20 Residential zone (2-R)

*A.* Purpose of Classification. The 2-R zone is designed to be applied to residential areas where higher density housing is appropriate.

*C.* Conditional Uses Permitted. In a 2-R zone, the following uses and their accessory uses are permitted when authorized in accordance with chapter 17.32:

6. Utility facility, including substation or pumping station or private generator.

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Findings: After the pipeline travels east on 12 St., it will enter the 2-R residential zone, as shown on the applicant's-Exhibit "B." The list of uses that can be approved with Conditional Use Permit in the 2-R zone includes "Utility facility, including substation or pumping station or private generator." 17.12.020. No pump station is proposed for this zone, but the pipeline that will be placed is the same as what was discussed above, as allowed in the I-R zone, pursuant to 0(C)(6). Given that the applicant has requested the CUP standards be applied to both the pump house and the pipeline, and given that the applicable CUP standards are the same for both the 2-R zone and the I-R zone, the findings addressing the CUP approval standards that are provided above are hereby incorporated by reference.

Findings addressing approval standards in the Commercial Zone (4-C)

17.12.030 Commercial zone (4-C)

A. Purpose of classification. The 4-C zone is designed to apply to areas where more complete commercial facilities are necessary for continuity convenience.

C. Conditional Uses Permitted. In a 4-C zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:

3. Utility facility, including substation or pumping station or private generator,'

Findings: As the pipeline continues east along 12<sup>th</sup> St. and turns north along Idaho St., it crosses the Commercial Zone, as shown on the applicant's Exhibit "B". Chapter 17.12.030 of Port Orford's Municipal Code contains the regulations governing the 4-C zone. Section C.3 lists "Utility facility, including substation or pumping station or private generator" as uses that are conditionally permitted in this zone. No pump station is proposed for this zone, but the pipeline that will be placed is the same as what was discussed above, in regard to the R-1 and R-2 zones.

Because there are wetlands in the 4-C zone, the Planning Commission will require that the applicant communicate with the Department of State Lands to assure that any wetlands on the property are considered and to comply with any Department of State Lands requirements for wetlands.

Given that the applicant has requested the CUP standards be applied to both the pump house and the pipeline, and given that the applicable CUP standards are the same for both the I-R zone and the 4-C zone, the findings addressing the CUP approval standards that are provided above are hereby incorporated by reference.

Findings addressing approval standards in the Controlled development zone (6CD)

17.12.050 Controlled development zone (6-CD)

A. Purpose of Classification. The purpose of the 6-CD zone is to recognize and protect natural resources, such as significant fish and wildlife habitats, ecological area, wetland and watershed and areas necessary to maintain or protect the quality of air, land and

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water resources. Future development is to be controlled in order to enhance these unique qualities.

Findings: As shown on the applicant's exhibit "B" the pipeline will continue north until it intersects with Hwy 101, and from there it will exit the commercial zone and cross over Mill Creek, which is subject to the Controlled Development zone.

This purpose statement is not itself an approval standard, but the approval standards are appropriately viewed in context of this purpose statement. The pipeline would cross through the CD zone within the Highway 101 right-of-way. The highway bridge already crosses through this zone and the 6" pipeline would be attached to the existing bridge structure. Because the pipeline will be suspended along the bridge and over the associated wetlands, the applicant has stated that no surface disruption will occur and there will be no degradation to the natural resource. The Planning Commission will require that the applicant communicate with the Department of State Lands to assure that any wetlands on the property are considered and to comply with any Department of State Lands requirements for wetlands.

The applicant is required to seek authorization from ODOT in order to place the pipeline in the State Highway right-of-way, and no construction authorized by this CUP approval may begin until the applicant has approval from ODOT to use the bridge.

c. Conditional Uses Permitted In a 6-CD zone the following uses and their access01Y uses are permitted when authorized in accordance with Chapter 17.32:

1. Public utility facilities;

Findings: This zoning regulation allows public utility facilities, but is silent on private utility facilities. The applicant has requested that the private pipeline be allowed in the 6-CD on the basis that it is indistinguishable from a public pipeline. Port Orford zoning regulations allow a use to be approved when it is adequately similar to a use that is specifically listed. These provisions are found in the administrative provisions of the Port Orford Municipal Code, and they state:

17.08.030 Authorization of similar uses.

The city council may permit in a particular zone a use not listed in this title, provided the use is of the same general type as the uses permitted there by this title. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone.

Findings: The applicant has requested that Section 17.08.030 be used to authorize the pipeline to cross through the 6-CD zone, on the basis that the pipe is adequately similar to a public utility pipe.

This provision requires the city council to make the determination of similar uses, but the Port

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Orford City Council has authorized the Planning Commission to process conditional uses under Chapter 17.32.030. In addition, the Port Orford City Council has the powers and duties of commission as set forth in ORS 227.090 and Chapter 2.16 of the municipal code. The Planning Commission agrees with the applicant that a private water pipe is similar to a public water pipe.

Because utility facilities are allowed in the CD zone only by conditional use permit, the CUP provisions from Section 17.32, which are discussed above, would apply to this portion of the development as well. The findings provided above that address the generally-applicable provisions of the CUP standards are incorporated here. In addition, the CUP provisions include standards that apply specifically in the CD zone.

17.32.050 Additional standards governing conditional uses

In addition to the standards of the zone in which the conditional use is located and the other standards of this title, conditional uses must meet the following standards:

G. Controlled Development Overlay Zone. The following criteria and conditions are applied to specific uses and activities in the controlled development overlay zone (6-CD).

1.A site investigation report shall be prepared at the applicant 's expense, containing the following information.

- a. Location of the proposed use and the area affected;

Findings: The applicant has included Exhibit "B" in its application as the site investigation report for the portion of the proposal that crosses the controlled development zone.

- b. The types of beach, dune or natural hazard present at the specific site;

Findings: There are no beaches, dunes, or natural hazards in the right-of-way of Hwy 101, in which the applicant proposes to, locate the water pipeline.

- c. Existing vegetation and vegetation to be removed;

Findings: Existing vegetation in this area consists of wetland plant varieties. The proposal would not remove any vegetation. The pipeline would be attached to the Highway 101 Bridge and suspended above the wetland. The applicant has explained that the pipeline would

"daylight" at the existing bridge footing, and that it would be attached to the bridge until it goes underground again at the far side. The applicant will be required to design and build its pipeline according to ODOT specifications.

- d. A revegetation plan or other methods of erosion control;

Findings: Because the proposal will not cause any vegetation to be removed, no re-vegetation plan is required. The applicant will comply with the City's erosion requirements,

- e. Proposed grading or fill plan;

Findings: The proposal requires no grading or fill. The pipeline will be suspended along the existing State Highway 101 bridge.

*f.* Areas subject to flooding, erosion, sand accretion, landslides, and other natural hazards;

Findings: Mill Creek in this area is subject to seasonal flooding, However, the portion of pipeline that is proposed to be located in this area will be fastened to the Hwy 101 bridge, where it will not be impacted by flooding. Because the proposal will not result in any soil disturbance or vegetation removal, the remaining natural hazards listed by this standard are not relevant.

*g.* Findings that adequate measures have been taken to protect the groundwater from drawdown which would lead to loss of stabilization vegetation, loss of water quality or intrusion of salt water into water supplies.

2. The city will use the content of the applicant's report to impose conditions which will control erosion, protect against flooding, sand accretion, or other hazards, protect the surrounding area from adverse effects of development.

Findings: The proposal will not involve any groundwater extraction. The Planning Commission members discussed effects of boring and trenching, and potential negative effects on the City's water infrastructure due to old asbestos concrete piping. It is appropriate for the Planning Commission to apply conditions to assure there are no negative effects on groundwater or City water infrastructure.

3. Structures shall be permitted in the zone only under the following provisions:

a. Site-specific review by all affected agencies and by the planning commission to determine that:

i. Visual impact is minimized,

Findings: The pipeline will be suspended along the bottom of the existing bridge and visual impacts will be minimized.

ii. Waterfront access is not impaired,

Findings: The pipeline will be suspended along the bottom of the existing bridge and no waterfront access will be impaired.

iii. A negative impact on adjacent property is not created, and

Findings: The pipeline shall be suspended from the bottom on an existing bridge and waterfront access will not be impaired.

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- iv. A long-term recurring cost to the public is not incurred;

Findings: The pipeline will be installed and maintained at the sole expense of the applicant.

- b. The proposed structure will not negatively impact riparian vegetation that is unimportant for water quality or fish and wildlife habitat.

Findings: The pipeline will be suspended from the bottom an existing bridge and it is appropriate that the applicant obtain all required permits related to. construction within a riparian zone. .

The pipeline complies with the criteria of the (6-CD) zone, and with the specific requirements of conditional uses in the (6-CD) zone set forth in Section 17.32050 Additional standards governing conditional uses.

It is appropriate to require that construction of the pipeline route will be completed in compliance with Oregon's Standard Specifications for Construction (APWA-ODOT), and approved by the City Engineer and/or the Oregon Department of Transportation depending upon jurisdiction. Any road surface that is displaced will need to be resurfaced to City Standards.

It is appropriate to require the applicant to provide a copy of all State authorization to place the pipeline in the State Highway right-of-way to be maintained in the record with any approval of this application,

#### Industrial Zone (5-1)

17.12.040 Industrial zone (5-1).

*A. Purpose of Classification.* The industrial zone is generally intended to provide for limited or light industrial uses. Conditional uses in this zone are designated heavier industrial uses.

*B. Uses Permitted Outright.* In a 5-1 zone, the following uses and their accessory uses are permitted outright:

- 16. Utility facility, including substation or pumping station or private generator;

Findings: The pipeline will pass through the industrial zone (5-1), which allows utility facilities and their accessory uses permitted outright. Because the pipeline is sufficiently similar to a public utility pipe, it is permitted in this portion of the development area.

#### Conclusion

With conditions attached hereto, Application # CUP 16-02 will comply with the requirements of all of the zones that it passes through within the City of Port Orford from its origin at the proposed pump station to its destination at the proposed Pacific Gales Golf Cours

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Exhibit A  
Port Orford Planning Commission

Conditions of Approval CUP {16-02 and CUP #16-03

Public Hearing February 14, 2017, Continued to March 14, 2017;

Decision of March 14, 2017;

Approval of Findings and Conditions, April 11, 2017

- A. The use shall be provided with landscaping. Vegetation shall be planted and maintained on the site where the pump station is located to provide a sound buffer for nearby residential uses and to protect scenic values. This shall include Laurel surrounding the pump station site on three sides (not across the back), T33, R 15, Section 05BD, Tax Lot 1011, and along 12<sup>th</sup> Street, Laurel shall be of nursery stock with a 2 inch caliper and spaced every 4 feet. Three Pacific Madrone trees shall be planted within the lot to be located on the north, east and west sides of the property for infill between the pump station and the property lines.
- B. Prior to commencing construction, a maintenance easement shall be completed through Elk River Property Development (ERPD) and the City of Port Orford, The easement shall be filed with the County and City,
- C. Prior to commencing with the use, the property shall be fenced with a fence no less than 6 feet high.
- D. The pump station structure shall not exceed 17 feet in height.
- E. Prior to commencing construction, the applicant shall show compliance with Port Orford Municipal Code requirements Chapter 17, 17, Erosion Prevention and Sediment Control and Chapter 17.18, Storm and Surface Water Management,
- F. Prior to commencing construction, the applicant shall obtain an access permit from 12<sup>th</sup> Street,
- G. All equipment storage on site shall be contained within the enclosed pump station facility.
- H. Prior to commencing with the use, the applicant shall comply with all DEQ requirements for the pump station, pipeline and connections.
- I. The applicant shall comply with all requirements of the City of Port Orford Municipal Code and the City Engineer related to construction of The pump station,

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pipeline, connections and transfers to and from the City's Wastewater Treatment Plant.

- J. Any right-of-way, sidewalks or other publicly owned property that is displaced by pipeline construction shall be brought up to City standards as required by the City Engineer.
- K. Lighting shall comply with the Dark Sky Ordinance of the City of Port Orford Municipal code. In addition, all exterior lighting shall fall within a 45-degree angle pointing to the ground. No light shall spill onto neighboring properties.
- L. The pump station shall be finished in muted earth tone colors.
- M. Prior to construction, the applicant shall provide copies of all communications with the Department of State Lands (DSL) regarding wetlands that are on properties designated for the pump station and/or the pipeline. The City requires copies of all communications and any concerns.
- N. No work may commence in any way on any of the pipeline and pump station until all local, County and State permits are in hand.
- O. Construction of the pipeline route shall be completed in compliance With Oregon's Standard Specifications for Construction (A-PWA-ODOT), and approved by the City Engineer and/or the Oregon Department of Transportation in all zones, depending upon jurisdiction. The applicant shall provide a copy of ODOT's authorization to place the pipeline in the State Highway Right-of-way so that it can be maintained in the record with any approval of this application.
- P. The applicant shall comply with all Federal, State and local requirements.
- Q. Transmission towers, poles, overhead wires, pumping stations and similar gear shall be located, designed and installed to minimize their conflict with scenic values.
- R. The applicant shall provide a copy of the City's Wastewater Plan amendment that provides the basis for private activity at the site and facility of the City's wastewater treatment plant to be maintained within the record of this application.
- S. The proposed pipeline that originates in the 8-PF zone shall only be constructed upon approval of the City Council.
- T. The applicant can only utilize one Conditional Use Permit, and that permit shall be for the installation of one pipe for the sole purpose of carrying treated effluent.

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- U. The applicant shall comply with all of the Conditions imposed by the Planning Commission.
- V. Any approved Conditional Use Permit shall be void after one year unless substantial construction has taken place as per Section 17.32.060 of the Zoning Ordinance. Any request to extend authorization shall be provided to the Planning Commission prior to the one year period.
- W. The applicant shall provide a report by an engineering geologist to be reviewed by the city engineer accessing all potential impacts related to city infrastructure along the pipeline route.
- X. The applicant shall provide a surety bond during construction of the pipeline and for 12 months following the construction so as to protect the City's current infrastructure from damage during installation.
- Y. The applicant shall follow the recommendations of a professional arborist to minimize damage to established vegetation along the pipeline route and the recommendations made by the arborist be filed with the city.

END OF DOCUMENT

BACKGROUND DOCUMENT

BEFORE THE PLANNING COMMISSION  
CITY OF PORT ORFORD

In the matter of Planning Commission file )  
CUP 16-03 for conditional use approval to )  
develop a pump station and pipeline for )  
the purpose of carrying effluent to the )  
proposed Pacific Gales Golf Course )  
known as the "alternative route." )

FINAL ORDER  
Findings of Fact and Conditions

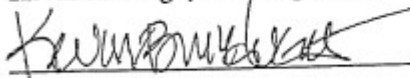
This matter came before the Planning Commission on an application by Elk River Property Development, LLC, seeking approval of a Conditional Use Permit to develop inside the city limits a pump station and pipeline for the purposes of transporting recycled wastewater from the city's wastewater treatment plant to the proposed Pacific Gales golf course. The Applicant was represented by Stuntzner Engineering & Forestry, LLC and the Law Office of Bill Kloos, PC.

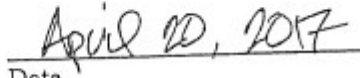
Following procedures as required by City Ordinance and Oregon law, the Planning Commission voted to approve the application with conditions on March 14, 2017, and voted to approve the Findings and specific Conditions on April 11, 2017.

An appeal or ruling of the Planning Commission may be appealed to the City Council within 15 days after the Planning Commission has rendered its decision. Written notice of an appeal shall be filed within the fifteen-day period, and if the city council does not designate the action or ruling for hearing, the decision of the planning commission shall be final. Appeals are addressed in Section 17.08.040 of the Municipal Code, Title 17. Zoning. The date of decision by the Planning Commission is the date upon which this Final Order is signed, as set forth in Section 17.04.160.

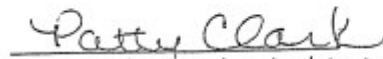
**NOW, THEREFORE, THE CITY OF PORT ORFORD PLANNING COMMISSION HEREBY ORDERS** that Application File No. 16-03 is approved with conditions, based on the findings outlined in Exhibit "A" attached hereto and incorporated by reference.

Kevin McHugh, Planning Chair

  
Name

  
Date

ATTEST:

  
Patty Clark, Planning Assistant

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BEFORE THE PLANNING COMMISSION  
CITY OF PORT ORFORD

EXHIBIT A

CITY OF PORT ORFORD PLANNING COMMISSION  
FINDINGS OF FACT AND CONCLUSIONS  
CUP 16-03: REQUEST FOR A CONDITIONAL USE PERMIT TO DEVELOP PUMP  
AND PIPELINE FOR PURPOSE OF DELIVERING RECYCLED WASTEWATER.

APPLICANT'S ALTERNATIVE ROUTE

Property Location: T.33, R.15, S.05BD  
Tax Lots 1300 (municipal waste water facility)  
Tax Lot 1011 (effluent pump station)  
Recycled effluent line location:  
12<sup>th</sup> Street East to Idaho Street  
Idaho Street North to Madrona Street  
Under Hwy. 101 to Port Orford Loop Road  
North on Port Orford Loop Road to Mather Drive

Property Owners: City of Port Orford, Tax Lot 1300  
William Rebhahn, Tax Lot 1011

Applicant: William Rebhahn and Elk River Property Development, LLC

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## I. SUMMARY OF PROPERTY AND APPLICATION

The applicant requested approval for the development of a waste water effluent pump station and the installation of private pipeline that would transport recycled wastewater from the City of Port Orford treatment plant to the proposed Pacific Gales Golf Course.

The pump station will be developed on a private city lot (Tax Lot 1011) that is located directly adjacent to and north of the municipal treatment plant. The pipeline through the City will be installed primarily within public rights-of-way, with the exception of that portion extending from the pump station, through the privately owned lot, to the adjacent public right-of-way (12<sup>th</sup> Street). There will also be a feed line between the treatment plant and the pump station. The routing for the pipeline is attached as Exhibit "B" in the application, which is incorporated herein by reference.

As shown on the Applicant's site plan, the pump station will be sited at the rear portion of the private lot, directly adjacent to the City Waste Water facility on the south and adjacent to 12<sup>th</sup> Street on the north. Specific conditions of approval, described within this document regulate the landscaping, dimensions, and design characteristics of the facility.

The route of the pipeline crosses multiple zoning districts, each with its own set of allowed uses. The zones that will be crossed by the pipeline include the 8-PF zone (public facilities and parks); the 1-R zone (residential zone); the 2-R zone (residential zone) and the 4-C zone (commercial zone), the 6-CD zone (controlled development) and the 5-I zone (industrial). The approval standards are varied amongst these zoning districts. Each different zone is addressed below.

The applicant requested that the entire proposal be reviewed under the CUP standards, despite the lack of clarity in the code as to whether the underground portion of the development would be regulated as a CUP. Because specific elements of the proposal require review under the CUP standards (such as the pump station in the 1-R zone) the applicant elected to subject all elements of the proposal, including the pipeline, to the CUP approval standards.

The development will be located inside of public right-of-way, except for where the pipeline will cross private property between the city's wastewater treatment plant and the public right-of-way.

## I. APPLICABLE STANDARDS AND CRITERIA

As indicated in the notice of hearing, the application was reviewed under the following provisions of the City of Port Orford Municipal Code, Title 17 - Zoning:

Chapter 17.12.010, C, 5 - Conditional Uses Permitted (Utility facility, including substation of pumping station)

Chapter 17.12.020, C, 6 Conditional Uses Permitted (Utility facility, including substation of pumping station or private generator)

Chapter 17.12.020, C, 4 – Conditional Uses Permitted (Public use facility or public utility including but not limited to fire stations; C, 6 (Utility facility, including substations of pumping station or private generator)

Chapter 17.12.030, C, 3 – Conditional Uses Permitted (Utility facility, including substation of pumping station or private generator)

Chapter 17.12.050, C, 1 – Conditional Uses Permitted (Public Utility facilities)

Chapter 17.32 – Conditional Uses including Chapter 17.32.050 – Additional standards governing conditional uses, Subsection A, Conditional Uses, Generally; D, 1-4

Chapter 17.08 – Section 17.08.020 Enforcement; Section 17.08.030 Authorization of similar uses.

Because the development will cross multiple zoning districts, each with its own zoning regulations, this findings document will address the applicable standards for each zoning district separately.

**Findings addressing approval standards in the Public Facilities and Parks zone (8-PF)**

*Municipal Code, Title 17 Zoning*

*Section 17.12.070, Public facilities and park zone, (8-PF)*

A. *Purpose of Classification.* The 8-PF zone is designed to identify and reserve publicly owned areas for the development of needed public facilities and service.

B. *Uses Permitted Outright.* In an 8-PF zone, the following uses and their accessory uses are permitted outright:

3. *Public utilities and services;*

**Findings:** The pipeline will originate in the Public facilities, 8-PF zone. Public utilities and services, and their accessory uses are permitted outright uses in the 8-PF Zone. The portion of the pipeline that will connect the existing wastewater treatment plant to the applicant's pump system will be approximately 50 feet long. The applicant stated its intent that the portion of the pipeline to be built on the site of the city's wastewater treatment plant will become a component of the city's existing treatment plant, owned by the city, subject to approval of the City Council. In addition, the applicant has stated it will be responsible for all costs associated with the design, construction, and ongoing maintenance of this component that will be added to the treatment plant. The City Council has amended its wastewater treatment plant facilities plan to adopt a policy supportive of recycling the wastewater, and this connection between the treatment plant and the adjoining private property is necessary for the recycled wastewater to reach the privately-owned pump facility and the rest of the pipeline.

The portion of the pipeline that will be added to the city's existing wastewater treatment plant is a use that is permitted outright in the 8-PF zone and it is appropriate to require that construction of the pipeline route and all connections with the City's wastewater facility and site will be completed in compliance with Oregon's Standard Specifications for Construction (APWA-

ODOT), and approved by the City Engineer and/or the Oregon Department of Transportation depending upon jurisdiction. In addition, the Planning Commission has imposed a condition requiring the applicant to obtain an easement to allow access to the city's treatment plant property, and to any necessary connections to the City wastewater site and system.

The applicant has described the necessary improvements that will be developed in the 8-PF zone, and the applicant has stated its intent to have all decisions within this zone remain under the exclusive jurisdiction of the City of Port Orford, with no financial burden to the City.

The proposed pipeline can originate in the 8-PF zone provided that the City accepts ownership of the pipeline components that originate there. It is appropriate to condition the use on this assumption.

#### Findings addressing approval standards in the Residential Zone (1-R)

##### *Section 17.12.010 Residential zone (1-R)*

*A. Purpose of Classification. The 1-R zone is designed to be applied to residential areas where dwellings are appropriate.*

*C. Conditional Uses Permitted. In a 1-R zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:*

*5. Utility facility, including substation or pumping station or private generator.*

**Findings:** After the wastewater feed line leaves the municipal wastewater treatment plant, it will cross into the 1-R zone and enter the private Tax Lot 1011. Approval of the application gives the applicants the rights to place the pipe and the pump station located on Tax Lot 1011. The pump station on Tax Lot 1011 will then charge the force-main that will cross the remainder of the lot before entering the public right of way along 12 St.

The pipeline will pass through the residential zone (1-R), which allows a pump station subject to a conditional use permit under Chapter 17.12.010 (C) (5), and subject to Chapter 17.32. Pipelines emanating from the proposed pump station will be private utility facilities.

The Planning Commission finds that the pipeline and pump station are of the same general type as uses specifically listed. There is no reference in the code to private pipelines.

It is appropriate to require that construction of the pipeline route will be completed in compliance with Oregon's Standard Specifications for Construction (APWA-ODOT), and approved by the City Engineer and/or the Oregon Department of Transportation depending upon jurisdiction. Any road surface that is displaced will need to be resurfaced to City Standards.

In light of some uncertainty as to whether the CUP criteria would apply to just the pump station, or to both the pump station and the pipeline, the applicant requested the Planning Commission to apply the CUP approval standards to the entire proposal, including the pump structure and the entire pipeline within the jurisdiction of the City of Port Orford.

Findings addressing approval standards for conditional use permits

*17.32.010 Authorization to grant or deny conditional use.*

*Uses designated in this title as conditional uses may be permitted, enlarged or altered in accordance with the requirements of Sections 17.20.020 through 17.20.060. In permitting conditional use, the council may impose conditions in addition to the provisions set for uses within each zone in order to protect the best interests of the surrounding property, the neighborhood or the city as a whole. These conditions may include, but are not limited to, increasing the lot size or setbacks, controlling the location or number of vehicular access points, increasing the street width, limiting the height of buildings to protect the light and air of adjacent properties, increasing the amount of off-street parking or loading, or other provisions necessary to minimize any conflict between the conditional use and the use of adjacent properties.*

This provision allows the Planning Commission to impose conditions on a proposed use in order to “protect the best interests of the surrounding property, the neighborhood or the city as a whole” in order to “minimize the conflict between the conditional use and the use of adjacent properties.” The pump station will be insulated, fenced, landscaped, and constructed with materials that are compatible with and similar to materials utilized for standard residential development. The entire pipeline will be within the jurisdiction of the City of Port Orford, and entirely underground, so the development will not generate any conflicts with the uses on adjacent properties.

*17.32.030 Public hearing on a conditional use.*

*Before acting on a conditional use, it shall be considered by the planning commission at a public hearing. The planning commission or its designated agent shall give notice or the hearing by sending notices by mail not less than ten days prior to the day of the hearing to the property owners within two hundred (200) feet of the exterior boundaries of the property involved and by posting on the official bulletin board at the City Hall a notice not less than five days prior to the hearing. The names for this purpose shall be obtained from [sic] the records of the count [sic] assessor. Failure of a person specified in this section to receive the notice shall not invalidate any proceedings in connection with the application for a conditional use. The commission may continue a public hearing in order to obtain more information or to serve further notice to persons it decides are affected by the proposed conditional use. Agent shall notify the applicant for a conditional use of the action of the planning commission within five days after a decision has been rendered. (Ord. 278 § 6.030, 1977)*

**Findings:** Notice of the hearing was provided to property owners, agencies, at the City Hall, and at the Post Office on January 25, 2017 as required by Section 17.32.040. Information about the hearing was also posted on the City’s website on February 3, 2017.

The applicants are seeking a conditional use permit for the pump station, and the Planning Commission is required to apply some conditions as set forth in Section 17.32, and authorized to

provide additional conditions. The Port Orford City Council has authorized the Planning Commission to process conditional uses under Chapter 17.32.030, which states: *Before acting on a conditional use, it shall be considered by the planning commission at a public hearing.*

**17.04.100 Notice.**

**B. Written Notice to Affected Property Owners and Interested Parties.**

1. When required to be given, written notice to affected property owners and interested parties shall include the following information:
  - a. Date, time and place of hearing;
  - b. The type of action being considered, including but not limited to, applications for conditional use permits, variances, or amendments to the zoning ordinance;
  - c. A reasonably written description of the location of the subject property, which may include but is not limited to any one of the following: a map, postal address, legal description, or tax map designation;
  - d. The nature of the pending issue or proposed use;
  - e. A list of the applicable criteria upon which a decision will be based;
  - f. A statement that written comments addressing the findings necessary for a decision may be submitted.
  - g. A statement that failure to raise an issue during a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker and opportunity to respond to the issue precludes appeal on that issue.
  - h. A general explanation of the requirements for testimony and conduct of the hearing;
  - i. A statement that the application materials are available for inspection or can be copied at a reasonable cost and staff reports may likewise be inspected seven days prior to the hearing;
  - j. A name of an officer or employee of the city, along with phone number, from whom additional information can be obtained.
2. Written notice shall be mailed to all property owners within two hundred fifty (250) feet of the external boundaries of the legally described property in the application for all permits and variances.
3. Written notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Department of Transportation as a "public use airport," if the property subject to the zone use hearing is:
  - a. Within five thousand (5,000) feet of the side or end of a runway of an airport determined by the Department of Transportation to be a "visual airport," or.....
5. Property Owners.
  - a. For the purposes of this subsection (B)(5), "property owner" is defined as the person identified as the owner of record on the latest adopted tax rolls of Curry County.
  - b. Written notice shall be mailed to the property owners identified in subsection (B)(2) of this section. Failure of a property owner to receive written notice shall not invalidate any action taken by the planning commission or city council, if a good faith attempt was made to comply with the requirements of this article for notice. (Ord. 99-05 § 2, 1999)



*17.04.080 Interpretation*

*The provisions of this title shall be held to the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this title are less restrictive than comparable conditions imposed by any other provision of this title or of any other city ordinance, resolution or regulation, the provisions which are more restrictive shall govern.*

**Findings:** The applicants provided the listing of property owners to be notified from the current Curry County Assessor's records. Notice was provided to property owners within 250 feet, rather than the 200 feet required by Section 17.32.030. The notice area was increased due to discrepancies within Title 17 of the City of Port Orford. The City complied with all of the applicable requirements of Section 17.04.100 in providing notice for the applications addressed within this staff report. The City followed the more restrictive of the two differing requirements for notice in compliance with Section 17.04.080. Public notice was mailed to property owners on January 20, 2017. The list for notice includes both pipeline routes, and a single notice was utilized to minimize confusion.

*17.32.40 Notification of public agencies.*

*For conditional uses within the MA, CD and SO zones, the following agencies shall be notified by mail, no less than ten days prior to the date of the public hearing:*

- A. *State Agencies.*
  - 1. *Division of State Lands;*
  - 2. *Department of Fish and Wildlife.*
  - 3. *Department of Environmental Quality;*
  - 4. *Department of Forestry.*
- B. *Federal Agencies.*
  - 1. *Army Corps of Engineers;*
  - 2. *National Marine Fisheries Service;*
  - 3. *U.S. Fish and Wildlife Service;*
- C. *Other Notification.*
  - 1. *State Water Resources Department (uses including appropriation of water only);*
  - 2. *State department of geology and Mineral Industries (mining and mineral extraction only);*
  - 3. *State department of energy (generating and other energy facilities only);*
  - 4. *Department of Economic Development (docks, industrial, and port facilities, and marinas only). (Ord. 278 § 6.031, 1977*

**Findings:** The City requested that the applicants provide a copy of names and addresses of agency personnel and addresses to comply with Section 17.32.040. A copy of the notice that was sent to the property owners was also provided to the agencies more than 10 days prior to this hearing on January 20, 2017.

*Section 17.32.050 Additional standards governing conditional uses*

*In addition to the standards of the zone in which the conditional use is located and the other standards in this title, conditional uses must meet the following standards:*

A. *Conditional Uses, Generally.*

1. *Setbacks. In a residential zone, yards shall be at least two-thirds the height of the principal structure. In any zone additional yard requirements may be imposed.*

**Findings:** The pump building will be the largest structure on tax lot 1011. The lot where the pump station is proposed to be located is currently undeveloped. When the pump structure is built, it will be the "principal structure" for the purposes of measuring setbacks. "

The applicant's materials show the shelter as having a minimum setback of 11.5 feet from the west property line. Under the two-thirds standard, that setback would permit a structure that is over 17 feet in height. The Planning Commission imposed a condition requiring that the pump station structure shall not exceed 17 feet in height.

2. *Limitation on Access to property and on Openings to Buildings. The city may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within fifty (50) feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent property.*

**Findings:** The only public access to the subject lot is provided exclusively from 12<sup>th</sup> Street to the north. Access to the building from 12<sup>th</sup> Street will require a permit from the city.

As part of this application, the applicant is also requesting that the city permit the applicant to access the southerly portion of the property across the city's existing gravel road at the treatment plant. The access requested will require an easement, which will require approval of the City Council.

For a conditional use in a residential zone, the City has the authority to limit vehicle access and building openings within fifty (50) feet of residential property, if "the openings will cause glare or excessive noise or will otherwise adversely affect adjacent property." The Planning Commission provided conditions of approval in response to neighbors' concerns that noise would be generated by the pump station.

The applicant stated that entire facility will utilize standard residential lighting and will contain no equipment or structural elements that would cause excessive glare. By following the City's dark sky ordinance, the Planning Commission determined that light overflow to neighboring properties will not occur.

It is appropriate that the Planning Commission impose conditions of approval that will mitigate for any visual impact and noise impacts, including specific requirements for landscaping, fencing, and the appearance of the pump house structure.

Planning Commission members discussed effects of boring and trenching, and potential negative effects on the City's water infrastructure due to old asbestos concrete piping. It is appropriate

that DEQ and the City Engineer be involved in any boring and trenching activities to assure that there are no negative effects on the City's water infrastructure or neighboring properties.

*3. The city may require assurances to guarantee development in accordance with the standards established and conditions imposed in granting a conditional use.*

**Findings:** The Planning Commission finds that it is appropriate that the City Council require Elk River Property Development to acquire a surety bond to protect the City infrastructure.

*D. Communications Transmitter, Receiver, Antenna or Tower, Utility Station, Substation, or Wind Generator.*

*1. In any residential zone, all equipment storage on the site shall be within an enclosed building.*

**Findings:** The equipment that is utilized in conjunction with the booster pump can be contained totally within an enclosed and fully insulated structure that is constructed with materials similar to those uses in standard residential construction. The applicant has stated the construction will be insulated which will reduce noise, and that the pump house will be approximately 100 feet to the south of the 12<sup>th</sup> St. right of way.

*2. The use shall be fenced and provided with landscaping.*

**Findings:** The entire pump station facility will be fenced for security purposes and landscaped as required by the Planning Commission. The property is currently covered with vegetation that will be maintained in undeveloped areas. The pump station will be located approximately 100 feet from 12<sup>th</sup> Street with access provided by a 12 foot driveway. The Planning Commission imposed conditions of approval requiring specific landscaping requirements.

*3. The minimum lot size for a public utility facility may be waived on finding by the planning commission that the waiver will not result in noise or other detrimental effect to adjacent property.*

**Findings:** The development is not a public utility facility, and the subject lot size exceeds the minimum lot size established for the applicable residential zone district so no waiver is necessary.

*4. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.*

**Findings:** The pumping station will be fenced and landscaped, as required. The applicant has agreed to paint the pump house a in an earth-tone color and ensure that it is architecturally unobtrusive and shielded with landscaping. The pipeline will be placed underground so there will be no interference with scenic values. Where pipe installation disturbs the soil or pavement



surface, right-of-ways will be brought up to city standards. By locating and installing the pipe almost entirely within the public right of way, the applicant will be using routes that are already dominated by pavement.

As noted in public testimony, one "scenic value" that could be impacted by the development is the pipeline's potential impact on tree roots. The applicant has agreed to follow best practices, as outlined by an Oregon State University Extension Bulletin, and it is appropriate to include an arborists report in order to place pipe below critical root zones, without impacting tree health.

**Findings addressing approval standards in the Residential Zone (2-R)**

**17.12.20 Residential zone (2-R)**

*A. Purpose of Classification. The 2-R zone is designed to be applied to residential areas where higher density housing is appropriate.*

*C. Conditional Uses Permitted. In a 2-R zone, the following uses and their accessory uses are permitted when authorized in accordance with chapter 17.32:*

*6. Utility facility, including substation or pumping station or private generator;*

**Findings:** After the pipeline travels east on 12 St., it will enter the 2-R residential zone, as shown on the applicant's Exhibit "B." The list of uses that can be approved with Conditional Use Permit in the 2-R zone includes "Utility facility, including substation or pumping station or private generator." 17.12.020. No pump station is proposed for this zone, but the pipeline that will be placed is the same as what was discussed above, as allowed in the 1-R zone, pursuant to 17.12.010(C)(6). Given that the applicant has requested the CUP standards be applied to both the pump house and the pipeline, and given that the applicable CUP standards are the same for both the 2-R zone and the 1-R zone, the findings addressing the CUP approval standards that are provided above are hereby incorporated by reference.

**Findings addressing approval standards in the Commercial Zone (4-C)**

**17.12.030 Commercial zone (4-C)**

*A. Purpose of classification. The 4-C zone is designed to apply to areas where more complete commercial facilities are necessary for community convenience.*

*C. Conditional Uses Permitted. In a 4-C zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:*

*3. Utility facility, including substation or pumping station or private generator;*

**Findings:** As the pipeline continues east along 12<sup>th</sup> St. and turns north along Idaho St., it crosses the Commercial Zone, as shown on the applicant's Exhibit "B". Chapter 17.12.030 of Port Orford's Municipal Code contains the regulations governing the 4-C zone. Section C.3 lists "Utility facility, including substation or pumping station or private generator" as uses that are conditionally permitted in this zone. No pump station is proposed for this zone, but the pipeline that will be placed is the same as what was discussed above, in regard to the R-1 and R-2 zones.

Because there are wetlands in the 4-C zone, the Planning Commission will require that the applicant communicate with the Department of State Lands to assure that any wetlands on the property are considered and to comply with any Department of State Lands requirements for wetlands.

Given that the applicant has requested the CUP standards be applied to both the pump house and the pipeline, and given that the applicable CUP standards are the same for both the 1-R zone and the 4-C zone, the findings addressing the CUP approval standards that are provided above are hereby incorporated by reference.

### Conclusion

With conditions attached hereto, Application # CUP 16-03 will comply with the requirements of all of the zones that it passes through within the City of Port Orford from its origin at the proposed pump station to its destination at the proposed Pacific Gales Golf Course.

## Exhibit A

### Port Orford Planning Commission Conditions of Approval CUP #16-02 and CUP #16-03

Public Hearing February 14, 2017, Continued to March 14, 2017;  
Decision of March 14, 2017;  
Approval of Findings and Conditions, April 11, 2017

- A. The use shall be provided with landscaping. Vegetation shall be planted and maintained on the site where the pump station is located to provide a sound buffer for nearby residential uses and to protect scenic values. This shall include Laurel surrounding the pump station site on three sides (not across the back), T33, R15, Section 05BD, Tax Lot 1011, and along 12<sup>th</sup> Street. Laurel shall be of nursery stock with a 2 inch caliper and spaced every 4 feet. Three Pacific Madrone trees shall be planted within the lot to be located on the north, east and west sides of the property for infill between the pump station and the property lines.
- B. Prior to commencing construction, a maintenance easement shall be completed through Elk River Property Development (ERPD) and the City of Port Orford. The easement shall be filed with the County and City.
- C. Prior to commencing with the use, the property shall be fenced with a fence no less than 6 feet high.
- D. The pump station structure shall not exceed 17 feet in height.
- E. Prior to commencing construction, the applicant shall show compliance with Port Orford Municipal Code requirements Chapter 17.17, Erosion Prevention and Sediment Control and Chapter 17.18, Storm and Surface Water Management.
- F. Prior to commencing construction, the applicant shall obtain an access permit from 12<sup>th</sup> Street.
- G. All equipment storage on site shall be contained within the enclosed pump station facility.
- H. Prior to commencing with the use, the applicant shall comply with all DEQ requirements for the pump station, pipeline and connections.
- I. The applicant shall comply with all requirements of the City of Port Orford Municipal Code and the City Engineer related to construction of The pump station, pipeline, connections and transfer to and from the City's Wastewater Treatment Plant.
- J. Any right-of-way, sidewalks or other publicly owned property that is displaced by pipeline construction shall be brought up to City standards as required by the City Engineer.

BACKGROUND DOCUMENT
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## Exhibit A

- K. Lighting shall comply with the Dark Sky Ordinance of the City of Port Orford Municipal code. In addition, all exterior lighting shall fall within a 45-degree angle pointing to the ground. No light shall spill onto neighboring properties.
- L. The pump station shall be finished in muted earth tone colors.
- M. Prior to construction, the applicant shall provide copies of all communications with the Department of State Lands (DSL) regarding wetlands that are on properties designated for the pump station and/or the pipeline. The City requires copies of all communications and any concerns.
- N. No work may commence in any way on any of the pipeline and pump station until all local, County and State permits are in hand.
- O. Construction of the pipeline route shall be completed in compliance With Oregon's Standard Specifications for Construction (APWA-ODOT), and approved by the City Engineer and/or the Oregon Department of Transportation in all zones, depending upon jurisdiction. The applicant shall provide a copy of ODOT's authorization to place the pipeline in the State Highway Right-of-way so that it can be maintained in the record with any approval of this application.
- P. The applicant shall comply with all Federal, State and local requirements.
- Q. Transmission towers, poles, overhead wires, pumping stations and similar gear shall be located, designed and installed to minimize their conflict with scenic values.
- R. The applicant shall provide a copy of the City's Wastewater Plan amendment that provides the basis for private activity at the site and facility of the City's wastewater treatment plant to be maintained within the record of this application.
- S. The proposed pipeline that originates in the 8-PF zone shall only be constructed upon approval of the City Council.
- T. The applicant can only utilize one Conditional Use Permit, and that permit shall be for the installation of one pipe for the sole purpose of carrying treated effluent.
- U. The applicant shall comply with all of the Conditions imposed by the Planning Commission.
- V. Any approved Conditional Use Permit shall be void after one year unless substantial construction has taken place as per Section 17.32.060 of the Zoning Ordinance. Any request to extend authorization shall be provided to the Planning Commission prior to the one year period.

**Exhibit A**

- W. The applicant shall provide a report by an engineering geologist to be reviewed by the city engineer accessing all potential impacts related to city infrastructure along the pipeline route.
- X. The applicant shall provide a surety bond during construction of the pipeline and for 12 months following the construction so as to protect the City's current infrastructure from damage during installation.
- Y. The applicant shall follow the recommendations of a professional arborist to minimize damage to established vegetation along the pipeline route and the recommendations made by the arborist be filed with the city.

END OF DOCUMENT

BACKGROUND DOCUMENT

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Port Orford City Hall  
555 W 20<sup>th</sup> Street  
Port Orford, OR 97465

April 12, 2023

Port Orford Common Council,

Thank you for the opportunity to respond on the extension of CUP 1602 and 16-03, relating to develop a pump station and pipeline for delivering recycled wastewater to the proposed Pacific Gales Golf Course.

I oppose the extension, the use of recycled water in the Elk River watershed and using Oregon General Funds for a private endeavor (SB 948) while the residents of Port Orford (myself included) are dealing with a critical water emergency.

I have not found any impact studies or information on how recycled wastewater runoff from the proposed Pacific Gales gold course will affect the Elk River. I find this negligent after reading many articles on the safety of recycled water. River water quality is essential to the health of our county. We are currently experiencing reduced returns on Salmon and Steelhead. What would leaching recycled wastewater and the chemicals used in maintaining golfing greens do to the Elk River and the already diminishing population of fish?

It is also negligent to be adding a golf course on our city water system when it is severely taxed in its capacity and cannot serve the taxpayers who live in the city boundaries. Where is a proposed bill from our representatives to secure funding for the required repairs and/or new wastewater system for the residents, or money to purchase land from logging companies to preserve a healthy watershed? I know I cannot be the only resident struggling to pay for the water to maintain a garden to grow food that I rely on. Why should a private golf course be rewarded with General Funds from the State when residents water is not guaranteed? Why are our Representatives David Brock-Smith and Court Boice not fighting for the needed sewer system upgrades for quality, reasonably priced water for the residents? It seems that we should be securing healthy water for the residents before anything else is added on to it.

In general, I oppose the proposed golf course. It was planned to rival the Bandon Dunes, which is only 25 miles away. The fees at Bandon Dunes discourage local working people to use their golf course. Is that the type of tourist business we want to support in Port Orford? With local issues like affordable housing, affordable water and limited services for the resident- what would it look like to cater to the upper middle class and wealthy tourist?

Do not extend the conditional use permit to support a golf course that locals would not be able to afford to use and does not benefit the City of Port Orford until the water emergency has been solved for its residents.

Thank you for this consideration.

Sincerely,

  
Michelle Hanna

2537 Port Orford Loop Road Box 952  
Port Orford, OR 97465

CITIZEN TESTIMONY

April 13, 2023

Dear Council Member,

We are writing to express concern over the proposed golf course development. We are new members of the community, recently having restored the historic McMullen house built in 1890. We also own the new bookstore in town, and have been excited to provide another outlet for community engagement and gathering in Port Orford.

We feel concerned about the environmental and cultural impact building a golf course could have on Port Orford. With a decaying water system, increased issues with drought, and concerns about the health of our rivers and ocean, it seems that allowing the development of a golf course would strain Port Orford's current resources, inevitably pollute the groundwater, and not add much culturally to the community.

We understand the concerns about bringing revenue to Port Orford, particularly in making sure working class individuals and families have the resources they need to thrive. We do not believe that building a golf course will have a positive impact on that segment of the population.

It seems better to invest in what is already here, to support the sustainable fisheries, and to think more creatively (with extensive community input) about what would best serve the needs of the people here, as well as the plants, animals and waterways that make this place so special and unique. It is so incredibly refreshing to have found a place that has resisted the temptation of big business—a place that is so concerned with the well-being of the people, the land, and the water. It would be such a tragedy to make a decision that could so easily derail these priorities.

We strongly oppose golf course development and hope that we can be part of finding other ways to make sure everyone lucky enough to live here can thrive and be well.

Thanks for listening,  
Elena T. Gardella  
Charlie J. Stephens (Sea Wolf Books owner)  
250 19th Street  
Port Orford, Oregon 97465

CITIZEN TESTIMONY



**David Brock Smith**  
**State Senator**

District #1  
 Curry, Coos, & Douglas Counties  
 900 Court St NE S-316  
 Salem, OR 97301  
 503.986.1701



Joint Committee Ways & Means Sub  
 on Public Safety

Senate Comm

OREGON STATE LEGISLATURE 900 COURT ST NE SALEM, OREGON 97301

April 13<sup>th</sup>, 2023

Support for Conditional Use Extension 16-02 and 16-03

Mayor Cox and Port Orford City Councilors,

I am writing you today in support of the approval of Conditional Use Extensions 16-02 and 16-03. I do so not only as your State Senator, but as a longtime resident of Port Orford, former longtime Port Orford City Council President, Port Orford Chamber of Commerce President/Director and Curry County Commissioner.

As you know, the residents of Port Orford are still paying for the original outfall before it was taken out by severe ocean weather. Prior to its replacement, a secondary outfall was contemplated similar to that within the approved Conditional Use Extensions presented. A secondary outfall project like this is also best practice and sound science, with a similar project moving forward in Cave Junction. Please see the attached "West Coast Ocean Acidification and Hypoxia Science Panel" that I worked on as your Curry County Commissioner with specific note to their #1 recommendation on pages 15-16. This type of project is also extremely helpful when applying for the needed grants for our failing water and wastewater system improvement projects. Grant funders want to see these types of projects that not only are best practice but utilize public/private partnerships.

It is extremely unfortunate that individual community members have wasted tens of thousands of taxpayer resources in the attempt to fight this environmentally friendly project that is best practice and has the potential to save the residents of Port Orford hundreds of thousands, if not millions of dollars in the future. I will also remind the council, that this appeal has already been adjudicated through LUBA, where the petitioner lost.

In closing, there is no lawful reason for the city to deny the request. The secondary outfall is environmentally best practice and is used as an alternative in other communities all over the state. Innovative partnerships like these strengthen needed grant funding applications for the city's funding needs for other water/sewer infrastructure projects and this issue has already been dealt with at the highest level at the state through LUBA. I again encourage the council to approve Conditional Use Extensions 16-02 and 16-03. Thank you.

CITIZEN TESTIMONY

Respectfully,



*David Brock Smith*

Oregon Senate

District 01

Curry, Coos, & Douglas Counties

“Southwest Oregon’s Fish, Farm & Forestry District”

Email: [Sen.DavidBrockSmith@OregonLegislature.gov](mailto:Sen.DavidBrockSmith@OregonLegislature.gov)

Website: <http://www.OregonLegislature.gov/SmithD>

CITIZEN TESTIMONY

# The West Coast Ocean Acidification and Hypoxia Science Panel



Briefing to OPAC April 5<sup>th</sup> 2016



## The West Coast Ocean Acidification & Hypoxia Science Panel



- 20 scientists from CA, OR, WA, BC
- Charge of Panel:
  - Advance understanding of OAH
  - Develop options for decision-makers
- Convened in 2013 by the Ocean Science Trust at the request of the California Ocean Protection Council, in partnership with the Oregon Governor's Office



CITIZEN DOCUMENT

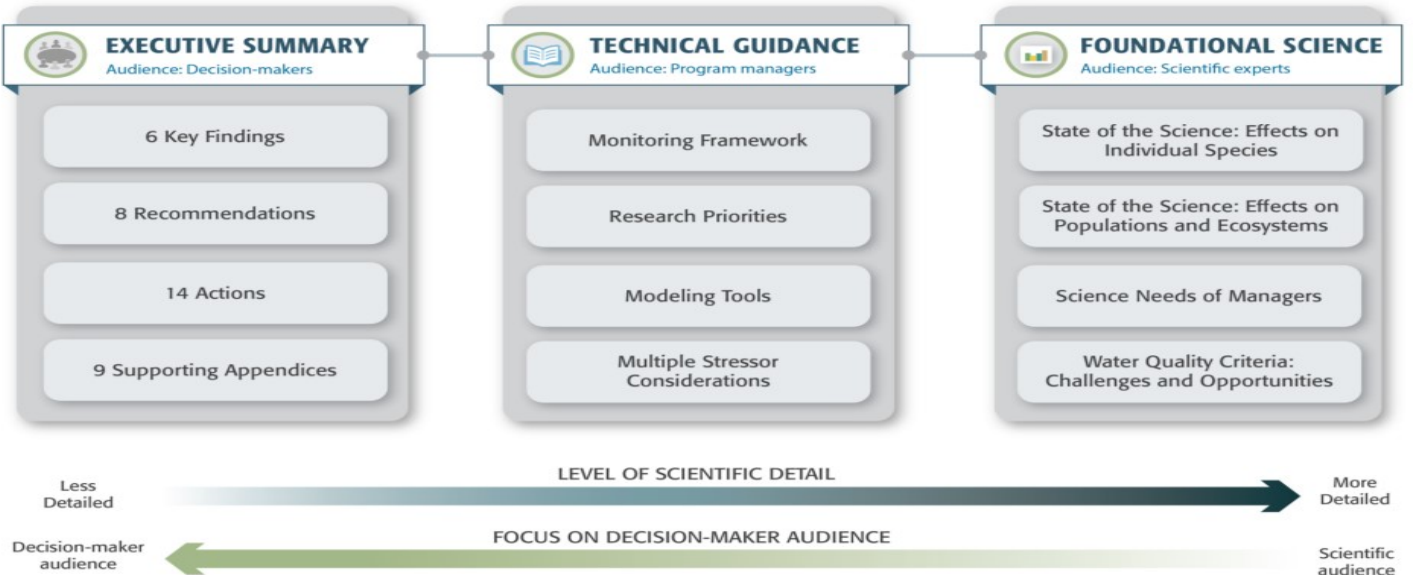
# The West Coast Ocean Acidification & Hypoxia Science Panel



 <b>Ali Boehm (Chair)</b> Stanford University	 <b>Jack Barth</b> Oregon State University	 <b>Francis Chan</b> Oregon State University	 <b>Elizabeth Chornesky</b> Consultant	 <b>Andrew Dickson</b> Scripps Institution of Oceanography
 <b>Richard Feely</b> NOAA PMEL	 <b>Burke Hales</b> Oregon State University	 <b>Tessa Hill</b> UC Davis	 <b>Gretchen Hofmann</b> UC Santa Barbara	 <b>Terrie Klinger</b> University of Washington
 <b>Debby Ineson</b> Institute of Ocean Sciences, BC	 <b>John Largier</b> UC Davis	 <b>Jan Newton</b> University of Washington	 <b>Thomas Pedersen</b> Pac. Inst. for Climate Solutions, BC	 <b>George Somero</b> Stanford University
 <b>Martha Sutula</b> So. CA Coastal Water Research Project	 <b>Waldo Wakefield</b> NOAA Oregon State University	 <b>George Waldbusser</b> Oregon State University	 <b>Steve Weisberg</b> So. CA Coastal Water Research Project	 <b>Liz Whiteman</b> California Ocean Science Trust

[www.westcoastOAH.org](http://www.westcoastOAH.org)

## Panel Products Overview

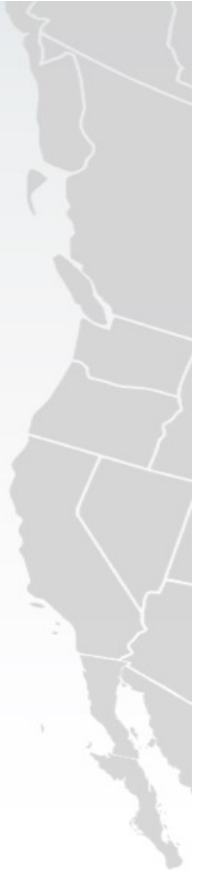


CITIZEN DOCUMENT



## Some subtext...

1. **We need to proceed with sound science**
2. **Certain actions will bring disproportionate results**
3. **Regional document but one size doesn't fit all**
4. **There's tremendous value in regional cooperation but Oregon has an outsized leadership role in science, actions and policy**



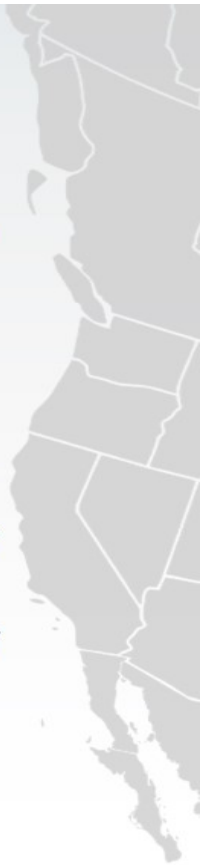
**If we were to cut through the fog...**



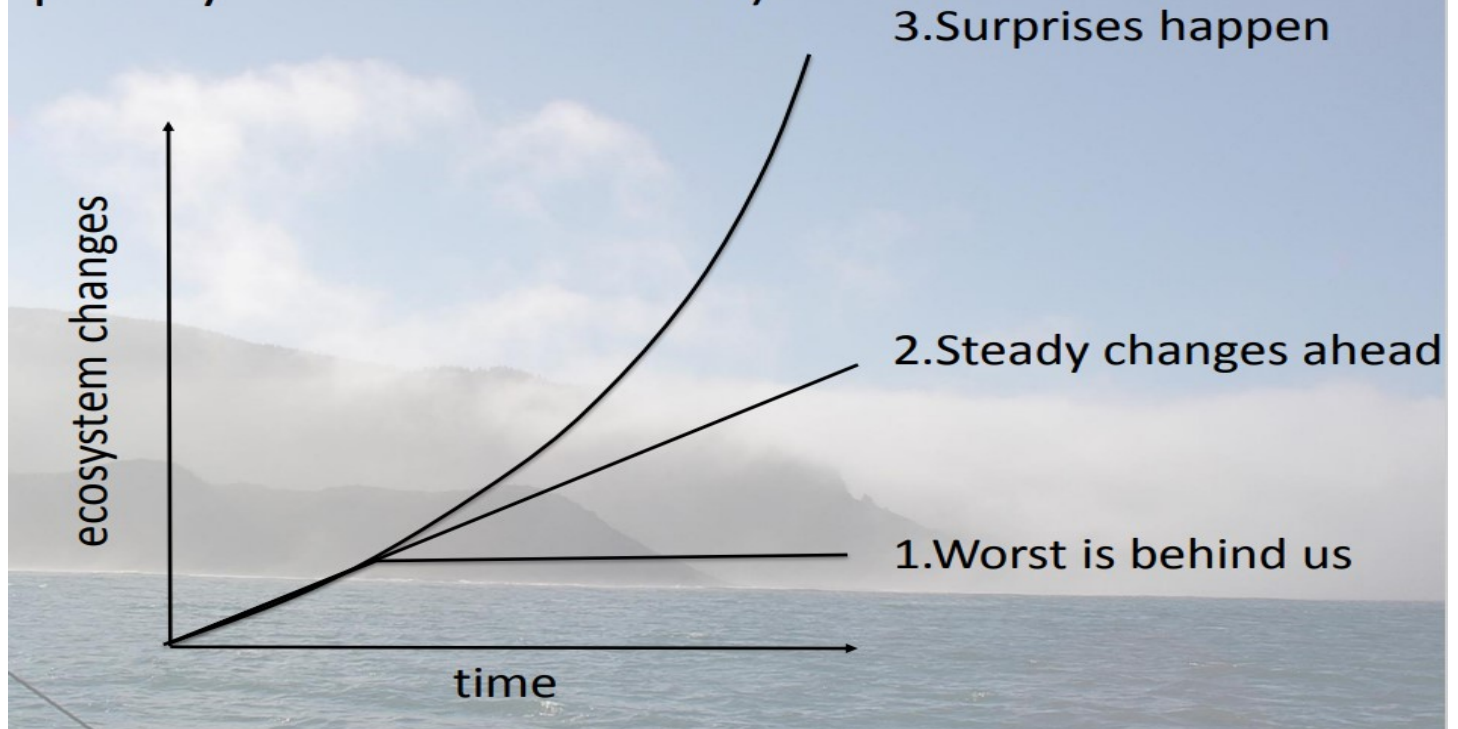
CITIZEN DOCUMENT

## 6 Major Findings

1. Consequences: OAH will have severe environmental, ecological and economic consequences for the West Coast, and requires a concerted regional focus
2. Global carbon emissions are the dominant cause of OAH
3. There are actions we can take to lessen exposure to OA
4. Strengthen: We can enhance the ability of ecosystems and organisms to cope with OA
5. Science: Accelerating OA science will expand the number of management options available
6. Act now: Inaction now will reduce options and impose higher costs later



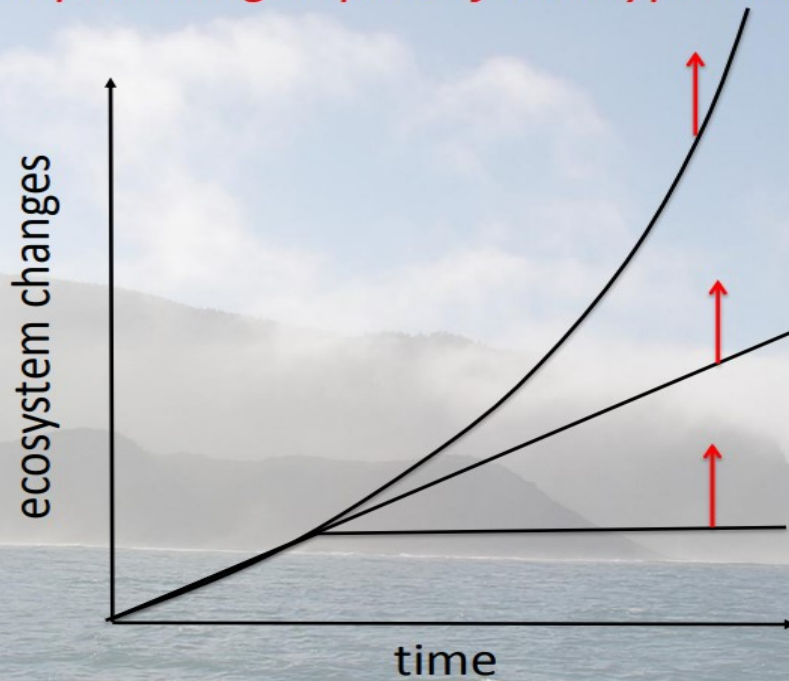
What will the future hold (does OAH warrant high priority for decision makers)?





*Compounding impacts from hypoxia?*

3. Surprises happen

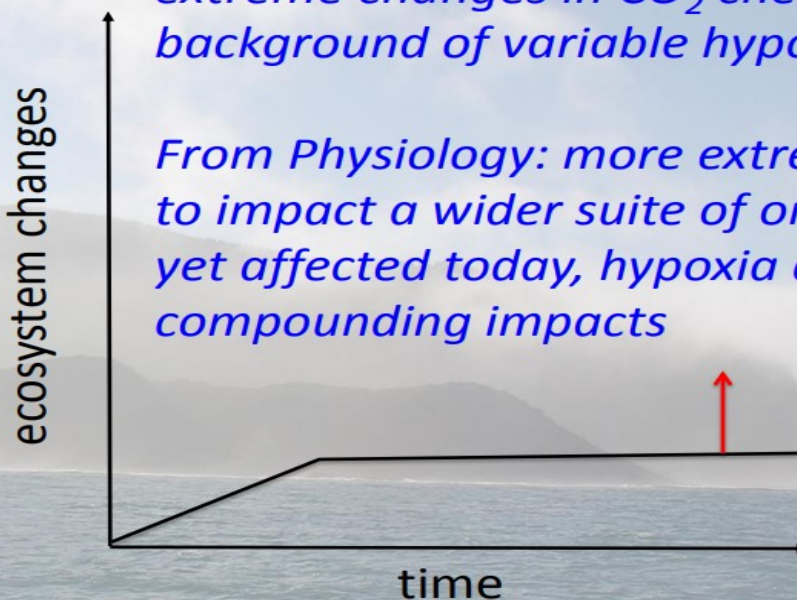


2. Steady changes ahead

1. Worst is behind us

*From Oceanography: We have committed to more extreme changes in CO<sub>2</sub> chemistry against a background of variable hypoxia stress*

*From Physiology: more extreme changes will start to impact a wider suite of organisms that are not yet affected today, hypoxia and OA can have compounding impacts*

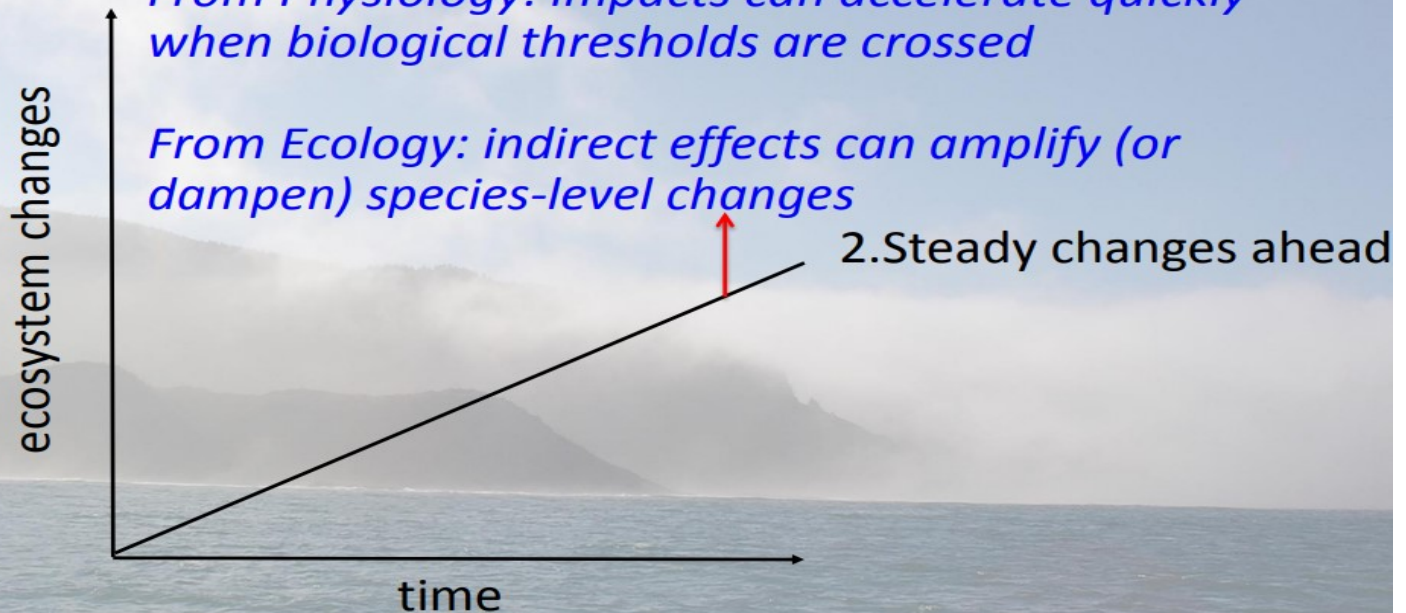


1. Worst is behind us

*From Oceanography: chemical changes are not linear, we will start to cross thresholds in chemistry*

*From Physiology: impacts can accelerate quickly when biological thresholds are crossed*

*From Ecology: indirect effects can amplify (or dampen) species-level changes*



## 6 Major Findings

1. Consequences: OAH will have severe environmental, ecological and economic consequences for the West Coast, and requires a concerted regional focus
2. Global carbon emissions are the dominant cause of OAH
3. There are actions we can take to lessen exposure to OA
4. Strengthen: We can enhance the ability of ecosystems and organisms to cope with OA
5. Science: Accelerating OA science will expand the number of management options available
6. Act now: Inaction now will reduce options and impose higher costs later



**OAH is something that we wait to happen to us**

**VS.**

**something that we can and should get out in front of?**



## Recommendation 1

**Theme: Address local factors that can reduce OAH exposure**



Reduce local pollutant inputs that exacerbate OAH (*where they matter*)

### **Actions:**

- Generate an inventory of areas where local pollutant inputs are likely to exacerbate OA
- Develop robust predictive models of OAH
- Develop an incentive-based strategy for reducing pollutant inputs



Seattle  
(650,000)



Port Orford  
(1,100)



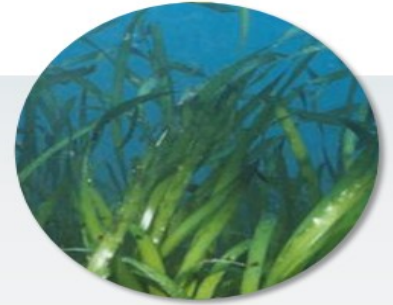
Los Angeles  
(18,500,000)





## Recommendation 2

*Theme: Address local factors that can reduce OAH exposure*



### Advance approaches that remove CO<sub>2</sub> from seawater

#### Actions:

- Use demonstration projects to evaluate which locations are optimal for implementing CO<sub>2</sub> removal strategies
- Generate an inventory of locations where conservation or restoration of aquatic vegetation habitats can be successfully applied to mitigate OA.
- Consider CO<sub>2</sub> removal during habitat restoration planning process.



## Recommendation 3

*Theme: Address local factors that can reduce OAH exposure*



**Revise water quality criteria (we lack a useable benchmark that tells us if we are doing well or poorly)**

**Actions:**

- Agree on parameters that will be part of OAH criteria

## Recommendation 3

### Revise water quality criteria

“Existing water-quality criteria, which were created four decades ago, are not scientifically appropriate for assessing OA condition.

Even when existing water-quality criteria for seawater pH are met, a wide range of severe biological impacts are routinely observed.”

– The West Coast OAH Panel:

Major Findings, Recommendations, and Actions



## Recommendation 3

Revise water quality criteria

### Need to quickly move pH monitoring beyond academic research...

WENDY SCHMIDT  
OCEAN HEALTH XPRIZE®

Sunburst  
Sensors

- \$2 million global competition
- Challenge: Develop pH sensor
  - Affordable
  - Management-relevant
  - Accurate



XPRIZE Winners, Sunburst Sensors

Photo Credit: XPRIZE

*\*OSU's MSI is the recipient of \$250,000 from Schmidt Foundation to train next generation of OA monitoring practitioners*

## Recommendation 4

***Theme: Systematically integrate OAH into the management of marine ecosystems and biological resources***



### Reduce co-occurring stressors on ecosystems

#### **Actions:**

- Integrate OAH effects into the management of ocean and coastal ecosystems and biological resources.

## Recommendation 5

**Theme: Systematically integrate OAH into the management of marine ecosystems and biological resources**



# Advance the adaptive capacity of marine species and ecosystems

### Actions:

- Inventory the co-location of protected areas vulnerable to OAH.
- Evaluate the benefits and risks to active enhancement of adaptive capacity

Triple duty for marine reserves?

Reservoir of genetic diversity

Natural listening posts for OAH





## Recommendation 6

*Theme: Expand knowledge about OAH*



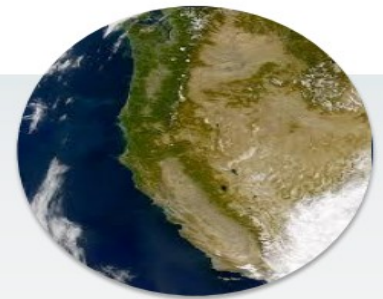
### **Establish a coordinated research strategy**

**Actions:**

- Create agreement among the multiple organizations that fund OAH research to establish joint research priorities.

## Recommendation 7

*Theme: Expand knowledge about OAH*



### **Build out a West Coast monitoring program that meets management needs**

**Actions:**

- Define gaps between monitoring efforts and management needs.
- Enhance comparability and access of OAH data.

## Recommendation 8

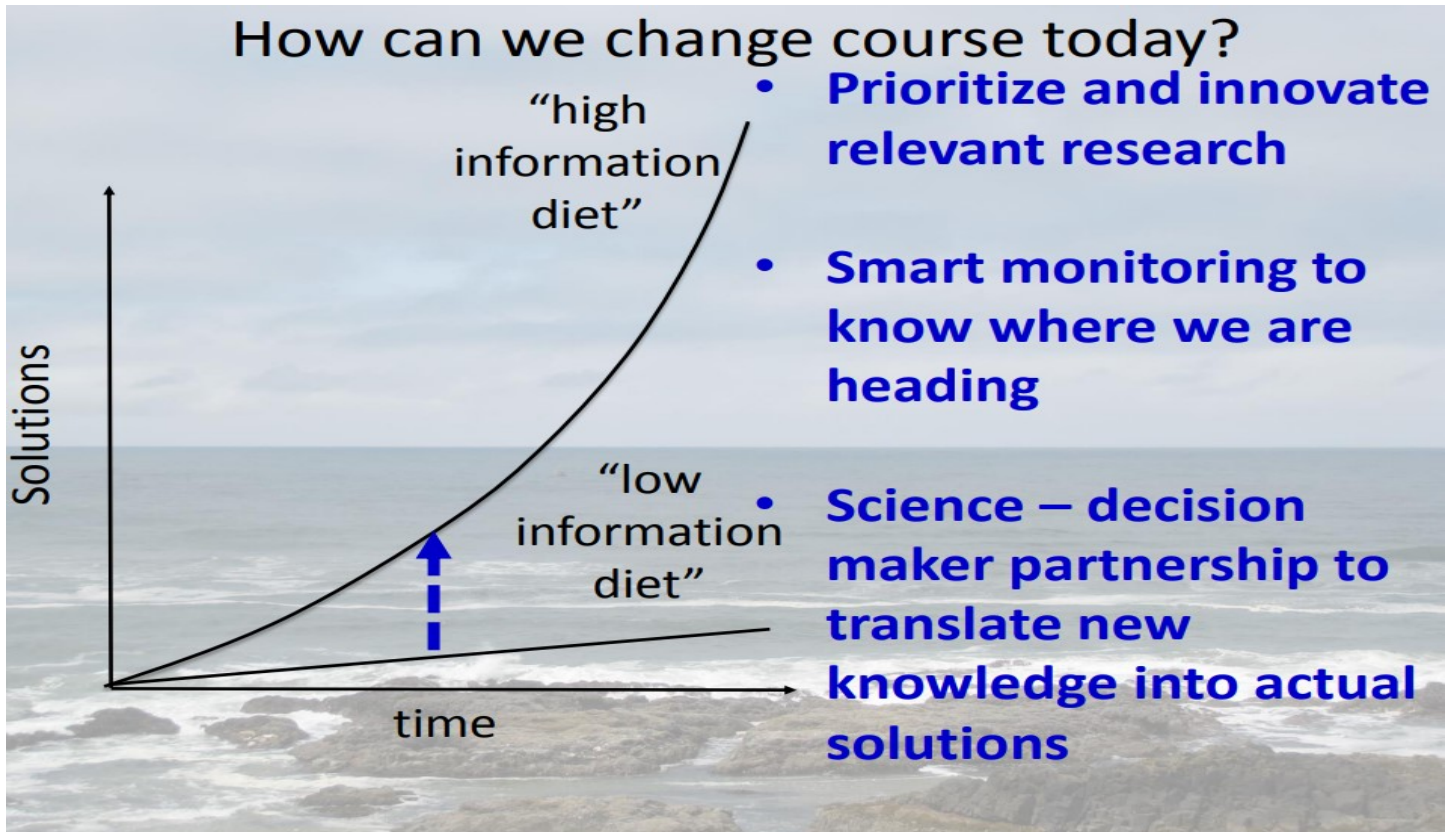
*Theme: Expand knowledge about OAH*



### Expand scientific engagement to meet evolving management needs

#### Actions:

- Create a science task force





## What's happening, what's next?

- Enhanced engagement with federal agencies (commitment to West Coast partnership, Panel actions...)
- Regional pivot from OAH-blind to OAH-informed policies
- Opportunities in Oregon to build from knowledge+partnerships, MSI, and legislative actions (e.g. shellfish initiative, ship time...etc.)

END OF DOCUMENT

CITIZEN DOCUMENT

To: Port Orford City Council

Re: Testimony for your April 20, 2023, hearing regarding CUPs 16-02 and 16-03

Date: April 17, 2023

From: Dana S. Gurnee / 834 Deady Street, Port Orford, OR 97465

Dear Councilors:

I write to ask you to **overrule** your Planning Commission's decision to renew CUPs 16-02 and 16-03. Please recall that your commission's vote was 3 to 2 in favor of renewal, but with *two commissioners absent*, and with *no* experienced, certified city planner in attendance.

Before I begin with substance, I would like to discuss process. The one-page "notice" that was published for the 2-16-23 hearing, soon canceled, contained no usable information whatsoever. It was sickeningly deficient and insulting. It was a profound embarrassment to the city. It was an invitation for future abuse of our planning processes. It was a new low for Port Orford.

The present five-page notice is better, but still lacking. For example, it does not provide an email address for letters like this one.

As for substance, let me offer a few random thoughts.

1. This discussion should be about a *conditional USE permit*. But the thing we actually have is getting to be an *unconditional UNUSED entitlement*.
2. This will be the **fifth** renewal if it is granted. As you must know, under the applicable ordinance, there is **no requirement** for the city to approve every renewal request that comes to it. In fact, city code **allows you to deny** a renewal request when "substantial construction" has not taken place within one year. Clearly, by no stretch of the imagination has "substantial construction" occurred here, over *six* years. ERPD's *stated desire* to have a DEQ permit is not substantial construction, especially when having such a permit has long been possible, with good effort to obtain it. Therefore, it is not at all unreasonable for you to override your commission, which itself had two votes against renewal (and two absences).
3. A denial of this renewal is **not a repudiation** of the possible merits of diverting treated effluent to a human enterprise, as opposed to lawfully putting it in the ocean. Your denial of this renewal would be, in effect, a request – **years into the process** – for *new and clarified information* on many **important** matters of concern that have evolved or changed over those years. Indeed, this is the very purpose of the ordinance: to update critical information when construction has not taken place. A new CUP will answer the questions, Why has there not been construction? What needs to be done to get this thing under way? Plus, a similar CUP, given to another entity, might make the objective come sooner.
4. In other words, let's have ERPD seek a new CUP – and maybe even a *single* CUP that resolves its indecision over a pipeline route. **Yes, a new and better CUP!** – a new CUP that provides updated information on important things that have changed in the last six years.
5. **In a new CUP**, ERPD could disclose how it will coordinate its efforts with the work that will occur with the city's BRIC grant (if received).
6. **In a new CUP**, ERPD could provide *current* information on any new threshold of wastewater treatment since 2016; information on how these thresholds will be met; and renewed assurances that ERPD is *still able to pay* for achieving these thresholds. The matter of funding is a bit mysterious at this time, on account of SB 928.
7. **In a new CUP**, ERPD could provide *current* information, or confirm prior statements, on crossing Garrison Lake with its pipeline.
8. **In a new CUP**, ERPD could disclose the engineering firm that it plans to use.

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CITIZEN TESTIMONY
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There are many other clarifications that could be made in a new CUP, all of them within the scope of the ordinance at hand. Accordingly, I suggest that the current 2016 CUPs are stale, within the intent of the ordinance, and I ask that the City Council **override** its Planning Commission and deny this application to renew CUPs 16-02 and 16-03.

My request is not rooted in a dislike of golf, or an affection for lawfully routing treated effluent into the ocean. Instead, my request is rooted in wanting to see respect for decent city planning, respect for the law, and respect for Port Orford. This city should abandon its past practices of meek permissiveness.

-- Dana Gurnee

CITIZEN TESTIMONY

Dear Councillor,

First of all; THANK YOU very much for all the time, energy and thought you give to our town as a Councillor.

I am writing regarding the proposed golf course and the continuing requests for extensions; specifically the one currently before you .I strongly urge you to reject this extension.

I am a 35 year resident of Port Orford and the owner of the longest operating business with the same owner in the same place in Port Orford.

I often hear our visitors remark on how much they value their time here. They are amazed by the unique qualities of our beautiful, small, friendly, quiet working class town. They love the working dock, the elk herds, our pristine, unspoiled surroundings and the easy access to nature. They appreciate that we have protected and preserved our rivers, wildlife, clean air and water, dark skies, our ranches and farms, and open spaces. We have always been a close knit community of neighbors and we love that we have an unspoiled place to live. That is why most of us are here and we hope that is what the future of Port Orford will be.

To preserve our way of life we are and can continue to focus on our many attractions for ourselves and visitors. We have the Hughes House, Cape Blanco and the campgrounds, the Coast Guard Station, beaches, mountains, rivers. We have hiking and fishing (river, lake and ocean), kayaking, paddleboarding, surfing, mountain biking just out our doors.

I believe that we should focus on and continue to support these wonderful activities (and the small local businesses that exist and promote them). In doing so, we can and will be able to grow and maintain our way of life.

A large golf course (of which there are many just north of us) will be a tremendous threat to our already imperiled Elk River fish populations, our water table, ocean waters, dark skies, our wildlife, and our small town.

I urge you to reject the extension . I do not see how allowing a big business by people from another state will enhance the quality of life we have sustained here for generations.

Thank you for your time on this and the time you give every day.

Sincerely,

Gayle Wilcox

April 18, 2023

To: City of Port Orford  
Common Council

I am writing to express my opposition to issuing yet another CUP 16-02 and 16-03.

I have several concerns regarding the extension as well as the need for a golf course.

I would ask the council to be transparent and disclose who the investors are behind this project. It's interesting to see Court Boice and David Brock-Smith (SB948) attempting to garner support for this project with government money. Meanwhile Port Orford is struggling in its efforts to provide enough water to the citizens of Port Orford.

Who stands to benefit from this recycled water SB 948? That \$750,000 could be better spent on something that could actually benefit the citizens of Port Orford, for instance by helping purchase the watershed land to help safeguard the drinking water source for Port Orford. Or, upgrading the current water system before it fails.

The citizens of Port Orford have a right to know. Why are Court Boice and David Brock-Smith spending their time and the people's resources on this project rather than looking into a sustainable, safe, water supply for the citizens of Port Orford? This pipeline/golf course seems to be an unnecessary distraction from Councils valuable time. Time that could be better spent looking for ways to develop Port Orford in a more cohesive manner.

Port Orford is a extremely charming little town with an ambiance all its own. I do not see a golf course as adding to that in any way.

If and when the golf course were to come to fruition, at that time they could simply truck the water the short distance from the water treatment plant to the golf course.

What will happen to that pipeline when "the big one"(tsunami) hits? (This is not an "if" but a "when"?)

What will be the effects from the effluent on the environment and the beautiful Elk River? What chemicals will be used on the golf course that will ultimately leach into and eventually filter into some of Port Orfords' water systems, i.e. Garrison Lake?

There are so many more important issues that need to be addressed. This appears to be a pet project that needs to be put to bed.

Thank you for your time and service. It is appreciated!

Diana & Jim Larson  
2460 Arizona Street  
Port Orford, Oregon 97465  
Have a great day,  
Jim & Diana Larson

CITIZEN TESTIMONY

**From:** Nia Sopiwnik <niasopiwnik@gmail.com>  
**Sent:** Wednesday, April 19, 2023, 3:34 PM  
**To:** gmilliman@portorford.org <gmilliman@portorford.org>  
**Cc:** Corey Stewart <stewa056@gmail.com>  
**Subject:** no to golf course pipeline

Please don't extend the pipeline out to a proposed golf course. Take care of the town. The world doesn't need another golf course.

Nia Sopiwnik Stewart  
Elk River rd  
Port Orford, Or

CITIZEN TESTIMONY

From: **Eric Oberbeck** <[Eric@cascadiageotechnical.com](mailto:Eric@cascadiageotechnical.com)>

Date: Wed, Apr 19, 2023, 8:18 PM

Subject: CUP 16-03

To: <[pcox@portofportorford.org](mailto:pcox@portofportorford.org)>, <[avileisis@portofportorford.org](mailto:avileisis@portofportorford.org)>, <[bwebb@portofportorford.org](mailto:bwebb@portofportorford.org)>, <[prask@portofportorford.org](mailto:prask@portofportorford.org)>, <[gtidey@portofportorford.org](mailto:gtidey@portofportorford.org)>, <[tpogwizd@portofportorford.org](mailto:tpogwizd@portofportorford.org)>

Cc: Jim Haley <[jmhaley@aol.com](mailto:jmhaley@aol.com)>, Chris Hawthorne <[chris@hawthornegallery.com](mailto:chris@hawthornegallery.com)>

To the Honorable Mayor Pat Cox and Port Orford City Council,

Dear Mayor Cox and Council Members,

I am writing in support of reissuing CUP 16-03 to Elk River Property Development LLC. I understand that the basis for a recently submitted appeal to reissuing the CUP is that the applicant is only allowed a single, one-year extension for an existing CUP and that the applicant has not yet started construction. I suggest that you look at the benefits that this project will bring to our area and remember that the state in their 2021 findings to an appeal to the city's CUP for this project found that the city should decide how to interpret and to enforce their CUP's.

I am very familiar with the site having done the geologic evaluation for the applicant to obtain their county permit. It is my professional opinion that using the city's sewer effluent to irrigate the golf course is a much more environmentally sound approach than dumping the effluent into the ocean. It may help mitigate in part costly future upgrades to the sewer system to bring it into compliance with state regulations. In addition, the golf course will create local jobs for both young and old residents and provide recreational opportunities for both. It will provide a means for local students to help pay for college. It will attract short term visitors to our area which will provide new customers to our local businesses. It will provide revenue both direct (through local business taxes) and indirect (through increased visitor expenditures and fees) to our local economy which can be used to repair our deteriorating infrastructure. In my opinion, it is a good use of the land and will not change the site but will help preserve it while allowing people to view and enjoy it. You have no further to look than Bandon to see the benefits that Bandon Dunes Golf Resort has provided to their community. I see no disadvantages to allowing the project to proceed. Thanks for your service to our community.

Sincerely,

Eric Oberbeck  
93345 Sixes River Road  
Sixes, Oregon 97476  
e-mail: [eric@cascadiageoservices.com](mailto:eric@cascadiageoservices.com)  
web: [www.cascadiageoservices.com](http://www.cascadiageoservices.com)

CITIZEN TESTIMONY

Beverly J. Walters

P. O. Box 262 Sixes, OR 97476 roberly35093@gmail.com

April 20, 2025

City of Port Orford Planning Commission  
Port Orford City Hall  
555 W. 20th Street  
Port Orford, OR 97465

Subject: Extension of Conditional Use Permit 16-02 and 16-03

Members of the Port Orford Planning Commission,

An alternative to the current disposal system of dumping treated waste water into the ocean is a real positive for the City of Port Orford. The engineering and construction will not be funded by the Taxpayers.

The supply of Fresh Water is limited: using it for irrigation where it percolates through the vegetation and soil filters out contaminants and adds to the ground water and aquifers. Common sense indicates this is environmentally beneficial.

I strongly support the extension of Conditional Use Permits 16-02 and 16-03.

Sincerely yours,



Beverly J. Walters

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To City Council,

I'm a resident of Port Orford that has become aware of the future possibility of recycled water being used for proposed golf course.

I believe this would have positive benefits for our community, utilizing our waste water.

I'm for development of this pipeline and pump station. Look forward to attending tonight's meeting.

Thank you,

Patricia D. Henderson  
42380 Garrison Lake Rd.  
Port Orford, Or 97465

CITIZEN TESTIMONY END OF SECTION
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# City of Port Orford

## CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Liaison Reports- Public Works

ITEM NO: 7 a.

### Public Works report for the week of April 1<sup>st</sup>-9<sup>th</sup> 2023

Local Budgeting in Oregon, 150-504-400.pdf guides it ORS 294 specifically

**ORS 294.471 Supplemental budget in certain cases** (3)(a) If the amended estimated expenditures contained in an individual fund that is being changed by a supplemental budget differ by 10 percent or less from the expenditures in the budget as most recently amended prior to the supplemental budget, the governing body of the municipal corporation may adopt the supplemental budget at a regular meeting of the governing body.

(b) Notice of a regular meeting convened pursuant to paragraph (a) of this subsection, including a statement that a supplemental budget will be considered at the meeting, must be published not less than five days before the meeting.

**ORS 294.473 Procedure when supplemental budget changes estimated expenditures by more than 10%** (1)(a) If the amended estimated expenditures contained in an individual fund that is being changed by a supplemental budget made under ORS 294.471 differ by more than 10 percent from the expenditures in the budget as most recently amended prior to the supplemental budget, the governing body of the municipal corporation shall hold a public hearing on the supplemental budget. (b) Notice of the hearing required under paragraph (a) of this subsection, including a summary of the changes proposed in the funds that differ by more than 10 percent from the expenditures in the budget as most recently amended prior to the supplemental budget, must be published not less than five days before the meeting.

#### **Water Plant: Op's - 2 NO Run Days this week**

Treated water produced 112,200

#### **Water Treatment plant 1 employee out for training this week**

1. Operation and maintenance of water plant,
2. Dallies, Hubbard's Turbidity 3.35
3. Water Plant went down @ 5:00 AM, got it back on-line @ 12:30 PM.
4. Monthly reports sent to the state, Lead & Copper, Turbidity monitoring
5. Repaired / replaced piping and filter for post soda
6. Repaired / replaced piping and filter system on post chlorine due to leaks.
7. Started corrosion prevention on interior plant piping. This project will take several months to complete.

#### **Water distribution leaks repair:**

1. 6 locates
2. 6 meter reads for possible leaks

#### **Waste Water plant: Op's:**

1. Operation and maintenance of Waste Water plant.

SUBMITTED BY:

City Administrator Pro Tem, Gary Milliman

# City of Port Orford

## CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Liaison Report - Planning

ITEM NO: 7 d.

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Due to the Water Moratorium, all land divisions and developments are temporarily being presented to the Planning Commission and require a well for water. One land division is currently on the docket for the Planning Commission.

Currently we have the extension for the Conditional Use Permit 16-02/16-03 on the docket for the City Council, however this should've been taken care of in the current City Council Meeting. We have at least one other Conditional Use Permit currently being evaluated for work being done at a satellite tower in a residential zone and another potential Conditional Use case for an RV park in a commercial zone; paperwork still being evaluated.

We are currently evaluating multiple building permits and working with citizens to attempt to get them completed as quickly and accurately as possible. However; between staff shortages and the training required to work on planning documents, this process is a little slow right now and leading to build up of documents. Citizens are asked to please be patient while planning staff works through the documents.

Planning Commission delayed their April meeting due to scheduling issues, next one will be May 2<sup>nd</sup> and will be quasi-judicial in nature. They will be discussing a land division, Short Term Rental parking, and reviewing applications for appointments to their Commission.

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SUBMITTED BY:

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Joseph Harrison, Planning Technician

## City of Port Orford

### CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Liaison Report – Watershed

ITEM NO: 7 e.

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The Port Orford Watershed Council met by phone in the first week of April. They continue to recruit new volunteers!

They have been delayed in planning for their public outreach and education event because there has been a delay in finalizing and printing their new stewardship brochure for landowners. They are now hoping to plan the event for early June. The event will provide information to landowners about how to manage gorse and reduce fire risks.

POWC has not yet been able to schedule a work day on the Sorenson parcel of the watershed but aims to do so in the coming months.

The final Forest Stewardship Plan and the Wildfire Hazard Reduction Plan for our source water drinking area have been recently posted/ published on the Curry Watersheds Partnership website. Ideally these can be added to Port Orford's website, too.

Watershed Council Chair Linda Tarr and Councilor Ann Vileisis have continued to work with DEQ staff to complete the supporting documents needed to finalize our State Revolving Fund Loan to purchase the watershed land to help safeguard our drinking source water area. City Administrator *pro tem* Gary Milliman and John Isadore have provided information, and Counsel McKenzie has helped by reviewing a purchase agreement.

I anticipate that our project will be included in DEQ's "intended use list" soon and that the loan and transaction will be able to proceed in the coming months.

There will be some final resolutions for Council to approve before the transaction can be finalized.

The City still needs to work on developing an agreement with the Curry Soil and Water Conservation District to facilitate their ongoing assistance with gorse management in our watershed.

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SUBMITTED BY:

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Ann Vileisis, Councilor

# City of Port Orford

CITY COUNCIL AGENDA DOCUMENTATION  
04/20/2023

Date:

SUBJECT: Liaison Reports- Mainstreet

ITEM NO: 7 e.

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Main Street Works in Progress - April 2023

## **Townwide bike racks - 10 locations**

Wild Rivers Coast Alliance has approved our Letter of Inquiry to submit a grant request for \$7000 to cover a portion of the \$10,000 projected budget. PO TLT grant request for \$3000 has been submitted. Erin Kessler leads the effort.

## **Mandated Tourism advertising for Port Orford**

Unspent TLT advertising funds carried forward from previous years (since Main Street took over) will be used to purchase a web domain and develop a Discover Port Orford website. Jessica had told Susan these forwarded funds come to \$51,914.12.

The website will contain detailed information on lodging, restaurants, local attractions, community calendar, weather, etc.

We will link to that page in future advertising (probably FY 2024-25. (The enjoyportorford site is currently used for that, but we would like to control content in the future.)

We arranged with Travel Oregon (MediAmerica) and Mile by Mile for ads in their publications.

## **Landscaping the right of way in front of Ray's**

We have submitted a TLT grant request to help with the cost of ground cloth and gravel. Ray's (corporate) will cover the remaining expense.

After locating services have marked the area, Dave Bassett will remove stumps and debris from the previous landscaping.

We have made arrangement with Coos Curry Electric to use old poles to create a nautical look similar to that in front of Camp Blanco RV park, with low plants and gravel similar to those at City Hall.

Dennis Farrar, who did the beautiful city hall landscaping project, will carry out the design.

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SUBMITTED BY:

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Gary Burns, Council

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# City of Port Orford

## CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Resolution 2023-04

ITEM NO: 9 A.

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The City Council adopted Ordinance 2022-04 establishing regulations concerning water curtailment and establishing Port Orford Municipal Code (POMC) Chapter 13.05. POMC 13.05.100 establishes regulation of applications for new water service. In administering this section, staff has found that there has been some inconsistency in the interpretation of certain terms, such as “new” or “additional.” The purpose of Resolution 2023-04 is to provide guidance to the City staff, contractors, and the public as to the meaning of these terms. The Resolution also provides policy guidance with respect to the “standards” precedent to the duration of a water shortage emergency applicable to POMC 13.05.020. The subject Resolution was developed following a meeting between City Hall staff, Public Works Supervisor Isadore and Mayor Cox.

### *Suggested Motions*

#### *Motion to Approve Resolution 2023-04*

I move to approve Resolution 2023-04

#### *Motion to Deny Resolution 2023-04*

I move to deny the Resolution 2023-04

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SUBMITTED BY:

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Gary Milliman, City Administrator Pro Tem

**RESOLUTION 2023-04**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF PORT ORFORD  
CLARIFYING CERTAIN PROVISIONS OF PORT ORFORD MUNICIPAL CODE CHAPTER  
13.05 RELATING TO WATER CONSERVATION**

**WHEREAS**, The City Council has enacted Port Orford Municipal Code (POMC) Chapter 15, known as the City of Port Orford Water Curtailment Code, and,

**WHEREAS** Section 13.050.100 of said Chapter sets forth standards for new water services, and,

**WHEREAS**, there is a need to clarify the intent of certain terms used within said Section to assist in the administration of water curtailment regulations,

**NOW, THEREFORE, BE IT RESOLVED** that the City Council declares as follows

For the purposes of POMC 13.05.100, the term “new” shall not include a property for which the City has provided municipal water service at any time in the past, or property for which a water System Development Charge was paid prior to February 18, 2022.

For the purposes of POMC 13.05.100, The term “additional” shall include the expansion of an existing residential unit by one or more bedrooms or by the installation of one or more additional toilets or showers.

**BE IT FURTHER RESOLVED** that following guidance is provided for the purpose of interpreting and administering POMC 15.05.020

For the purposes of 13.05.020, it is recognized that standards utilized by the Public Works Supervisor and/or City Administrator shall include:

1. The water storage capacity of the holding pond, which is likely to remain below standard until such time as a major dredging project is completed.;
2. The treated water storage tank is at or below 15 feet at any time during a 24-hour period;
3. Raw water production is at or above 350 million gallons per day (mgd)

**APPROVED BY THE COMMON COUNCIL OF THE CITY OF PORT ORFORD AND  
EFFECTIVE THIS 20<sup>TH</sup> DAY OF APRIL, 2023**

\_\_\_\_\_  
Pat Cox, Mayor

ATTEST:

\_\_\_\_\_  
Gary Milliman, City Recorder Pro Tem

## ORDINANCE NUMBER 2022-04

### AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF PORT ORFORD

The Common Council of the City of Port Orford hereby ordains that the following Ordinance 2022-04 be adopted for Water Curtailment

#### CHAPTER 13.05

#### SECTIONS:

- 13.05.010 Title
- 13.05.020 Purpose
- 13.05.030 Definitions
- 13.05.040 Application of Procedure
- 13.05.050 Levels of Concern
- 13.05.060 Regulation of Water usage During Level of Concern Conditions
- 13.05.070 Nonessential Residential Water Use
- 13.05.080 Nonessential Commercial or Industrial Use
- 13.05.090 Gutter Flooding
- 13.05.100 Regulation of Applications for New Water Services
- 13.05.110 Penalty
- 13.05.120 Variances

This chapter, together with the any amendments codified in this chapter, shall be known and may be cited as the City of Port Orford Water Curtailment Code and will be referred to herein as "this code".

#### 13.05.020 - Purpose:

The City hereby declares that water shortage emergency condition exists in the City of Port Orford when the Hubbard's Creek holding pond and/or treated water holding tank is below standards set by the Public Works Supervisor. City Administrator and the Public Works Supervisor acknowledges that during such times of low water supply the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation, fire protection and aquatic life protection.

In order to conserve the water supply for the greatest public benefit with particular regards to domestic use, sanitation, fire protection, safety, and aquatic life protection, the City adopts the following regulations and restrictions on the delivery and consumption of water during drought conditions.



## 13.05.030 - Definitions:

In the case where a definition of a term is found to be in conflict with a definition or term in any other City ordinance or regulation, the more restrictive definition shall apply.

Customer: means any person designated in city records to receive City of Port Orford water service.

City Administrator: means the City Administrator of the City of Port Orford, or any authorized employee of the City of Port Orford designated by him/her.

Person: means any person, firm, entity, partnership, association, corporation, company or organization of any kind.

Water: means water from the City of Port Orford, unless expressly provided otherwise or required by contract.

Water Curtailment Measures: means any restrictions or rules set forth in this Ordinance to address the First, Second, Third or Fourth Levels of Concern set forth herein.

First Level of Concern: means when water reaches 2.5 feet in Hubbard's Creek Holding pond or 16 feet in the treated water tank.

Second Level of Concern: means when water reached 2.0 feet in Hubbard's Creek Holding Pond and/or 14 feet in the treated water tank.

Third Level of Concern: means when water reaches 1.8 feet in Hubbard's Creek Holding Pond and/or 12 feet in the treated water tank.

Fourth Level of Concern: means when water reached 1.5 feet in Hubbard's Creek Holding Pond and/or 10 feet in the treated water tank; or when the State of Oregon declares a drought emergency in Curry County Oregon.

## 13.05.040 —Application and Procedure:

The provision of the Ordinance shall apply to all customers using water provided by the City of Port Orford at such times as Hubbard's creek decreases to 1.5 feet or less and/ or the treated water holding tank decreases to 10 feet or less. Upon implementation of the Water Curtailment Measures, such measures shall remain in effect until the stream flow has increased above trigger level for a continuous 24 hours as verified by the Public Works Supervisor and or City Administrator or the treated water tank is 15 feet or greater.

The Penalty provisions for the Ordinance will not be enforced unless and until public notice has been posted in at least three (3) public places or notice has been published in the local newspaper after the first confirmation of Second, Third or Fourth Level of concern conditions, evidenced by the measurement in Hubbard's Creek Holding Pond and the treated water holding tank. Notice shall be republished for each separate occurrence of Second, Third, or fourth level of concern conditions following a non-drought period.

#### 13.05.050 —Levels of Concerns:

There are four levels of concern depending on the levels in Hubbards Creek and or the treated water tank.

#### 13.05.060 — Regulation of Water usage During Level of Concern Conditions:

- 1) First Level of Concern: Conditions, persons and customers are requested to voluntarily reduce their water use. The City may issue a formal or informal request for such reduction, including a summary of the water level condition, the reason for the requested curtailment, and a warning that mandatory curtailment will be required if the voluntary measures do not sufficiently reduce water usage by 20% within 30 days.
- 2) Second Level of Concern: Conditions, no person or customers shall sprinkle, water or irrigate any shrubbery, trees, lawns, grass, ground covers, plants, vines, , flowers, or any other vegetation, except as follows:
  - a. Irrigation, sprinkling, and/or watering is only permitted by residences west of Hwy 101 on even numbered calendar days.
  - b. Irrigation, sprinkling, and or watering is only permitted by residences east of Hwy 101 on odd-numbered calendar days.
- 3) Third Level of Concern: Conditions, no person or customer shall sprinkle, water, or irrigate any shrubbery, trees, lawns, grass, ground covers, plants, vines, flowers or any other vegetation. Direct hand watering of food producing plants (herbs, fruit, and vegetable) shall be permitted.
- 4) Fourth Level of Concern: conditions, there is imposed on persons and customers a mandatory reduction in water usage as follows:
  - a. No person or customer shall sprinkle, water, or irrigate any shrubbery, trees, lawns, grass, ground covers plants, vines, flowers or any other vegetation.
  - b. For residential customers, the City may issue a maximum daily allotment for water use per meter. A person or customer who exceeds the maximum daily allotment shall be subject to the penalty provisions of the Ordinance.

- c. The City may require the use of shower flow restrictors, toilet damming devices, or other water conservation devices.
  
- d. Bulk water sales shall be suspended.

13.05.070- Nonessential Residential Water Use: The following residential water uses are hereby determined to be nonessential and are prohibited during Second, Third and Fourth Level of Concern Conditions.

- 1) The use of water to wash any motor bike, motor vehicle, boat (excluding Commercial Fishing Vessels), trailer, or airplane, except when such water is used at a commercial washing facility;
  
- 2) The use of water to wash down any sidewalk, walkway, driveway, parking lot, tennis court or other hard-surfaced area, or any building or structure;
  
- 3) The use of water to fill, refill or add to any indoor or outdoor swimming pool, Jacuzzi pool, except for the following: neighborhood fire control purposes, where the pool has a recycling water system and evaporative cover, or where the use of the pool is required by a medical doctor's prescription; and
  
- 4) The use of water in a fountain or pond for aesthetic or scenic purposes, except where necessary to support aquatic life.

13.05.080 — Nonessential Commercial or Industrial Use: During Second, Third and Fourth level of concern conditions, the following commercial and/or industrial water uses are hereby determined to be nonessential and are prohibited:

- 1) Serving City water for drinking at a restaurant, hotel, café, cafeteria, or other public place where food is sold, served, or offered for sale, to any person unless requested by such person;
  
- 2) The use of water for scenic or recreational ponds and lakes, except for the minimum amount required to support aquatic life;
  
- 3) The use of water from hydrants for constructions purposes, fire drills, or any purpose other than fire-fighting;
  
- 4) The use of water for dust control.

13.05.090 — Gutter Flooding: No person or customer shall cause water to run to waste in any gutter or drain during a Second, Third, or Fourth level of concern.

13.05.100 — Regulation of Applications for New Water Services: No new, additional, further expanded or increased-in-size water services connections, meters, services lines, pipeline extensions, mains, or other water service facilities of any kind shall be allowed, approved or installed during a Second, Third, or Fourth Level of Concern.

13.05.110 - Penalty: The following penalty provisions apply to violations of this Ordinance:

- 1) Penalties for violating this Ordinance shall be cumulative in that they may be in addition to, not in lieu of, other penalties, remedies, or surcharges established by this chapter.
- 2) Second Level of Concern: Any Customers who exceed usage two (2) times the annual average of water usage in their designated zone shall pay a surcharge of two (2) times the rate for water delivered in excess of the average volume.
- 3) Third Level of Concern: Any customers who exceed two to four (2-4) times the annual average of water usage in their designated zone shall pay a surcharge of three (3) times the rate for water delivered in excess of the average volume.
- 4) Fourth Level of Concern: Any Customers who exceeds four (4) and over the annual average of water usage in their designated zone shall pay a surcharge of four (4) times the rate for water delivered in excess of the average volume.

13.05.120 -Variances: The City Administrator may, in writing, grant temporary variances for prospective uses of water otherwise prohibited after determining that due to unusual circumstances, failure to grant such variances would cause an emergency condition affecting health, sanitation or fire protection.

The City Council shall ratify or revoke any such variance or adjustment at its next scheduled meeting. Any such variance or adjustment so ratified, may be revoked by later action of the City Council. No such variance shall be retroactive or otherwise justify any violation of this Ordinance occurring prior to issuance of said temporary variance.

The foregoing ordinance was enacted by the Common Council of the City of Port Orford this 17<sup>th</sup> day of February 2022 and effective the 18<sup>th</sup> day of February 2022 by the following vote:

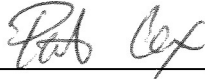
DATED:

Passed Or Failed by the following Roll Call Vote

Yes: Garratt, Pogwizd, Burns, Tidey, Kessler and LaRoche

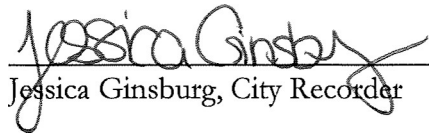
No: \_\_\_\_\_

Passed 6 \_\_\_\_\_ Failed \_\_\_\_\_ 0



\_\_\_\_\_  
Mayor Pat Cox

ATTEST:

  
\_\_\_\_\_  
Jessica Ginsburg, City Recorder

# City of Port Orford

## CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Janitorial Contract

ITEM NO: 9 B.

---

The City has been operating with out Janitorial Staff since December 2022; at this time city staff cleans their own work areas once a week and work together to clean common areas. The proposed contract is for \$2450 monthly with an additional \$12.50/hour should janitorial services be needed outside normal work hours and would become effective May 1<sup>st</sup> 2023 and remain in effect until May 1<sup>st</sup> 2024 unless renewed.

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### *Suggested Motions*

#### *Motion to Approve hiring*

I move to approve hiring of a new janitorial staff member.

#### *Motion to Deny hiring*

I move to deny hiring of a new janitorial staff member.

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SUBMITTED BY:

---

Gary Milliman, City Administrator Pro Tem

**CITY OF PORT ORFORD**  
**PERSONAL SERVICES CONTRACT**

THIS CONTRACT is between the **CITY OF PORT ORFORD**, an Oregon municipal corporation (the City), and **Scotti Mclain** (the contractor). This contract is for provision of janitorial services for the City.

**1. Effective Date and Duration.** This contract shall become effective on May 1, 2023 and, unless earlier terminated or renewed as provided herein, shall terminate on May 1, 2024. This contract shall automatically renew for additional terms of one year, unless one party delivers written notice of that party's intent not to renew the contract, not less than ninety (90) days prior to the expiration date of May 1<sup>st</sup> of that calendar year. The Contractor shall at all times carry on the work diligently, without delay and punctually fulfill all requirements herein. The passage of the contract expiration date shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured or the breach of any Contractor warranty.

**2. Scope of Work.** Contractor will provide janitorial services to the City, as more specifically set forth on "Exhibit A," which is attached hereto and incorporated herein by reference. As used in the "Exhibit A," "City Hall" includes entrance ways, all offices, the Council Chamber, and Police Department (under supervision, but excludes the Fire Hall.)

**3. Compensation.** Contractor shall receive as compensation for work performed under this contract \$2450.00 per month, which includes all allowable expenses. The city shall furnish supplies, and make available tools for contractor's use. Billings shall be sent to the City of Port Orford, City Hall, Port Orford, Oregon. If the City requests additional janitorial services on an hourly basis; the city will pay for actual time worked, at the rate of \$12.50 per hour on submission of a detailed list of services performed.

**4. Qualified Work.** Contractor has represented and, by entering into this contract, now represents he/she is fully qualified to perform all the work required under this contract and will perform the work in a skilled and professional manner. Contractor further represents that, if required to be registered, licensed or bonded by the State of Oregon, he/she is so registered, licensed and bonded.

**5. Access to Records.** For not less than three (3) years after the contract expiration, the City or its duly authorized representatives shall have access to the documents and records of the Contractor which are directly pertinent to the services provided under this contract for the purpose of making audit, examination, excerpts, and transcripts. If for any reason, any services provided under this contract become the subject of litigation, Contractor shall retain all pertinent records for not less than three (3) years or until all litigation is resolved, whichever is longer. Full access will be provided to the City in preparation for and during litigation.

**6. Funds Available and Authorized.** The City reasonably believes at the time of entering into this contract that sufficient funds are available and authorized for expenditure to finance costs of this contract within the City's current appropriation or expenditure limitation. If funds should become unavailable City may terminate this contract without penalty.

**7. Indemnity and Insurance.**

(a) Indemnity – The Contractor agrees to indemnify, hold harmless and defend the City, and its officers, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor except to the extent damages from such claims and actions are caused by City.

~~Contractor shall defend, save, and hold harmless the City, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of Contractor, its agents or employees under this contract.~~

(b) Insurance – Contractor shall provide general liability insurance with a combined single limit, or the equivalent, of not less than one million dollars (\$1,000,000) for a single occurrence and two million dollars (\$2,000,000) in the aggregate~~three hundred thousand dollars (\$300,000.00) for any number of claims arising out of a single accident or occurrence,~~ to cover damages caused by the error, omission or negligent acts related to the services to be provided under this contract to which the City shall be named as additionally insured. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage without thirty days' written notice from the Contractor or its insurers to the City. As evidence of the insurance coverage required by this contract, Contractor shall furnish insurance certificates to the City.

**8. Employment Status.** Contractor represents and warrants the Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265. Contractor further represents and warrants that the Contractor meets the specific independent contractor standards of ORS 670.600 and will perform the work required by this contract as an independent contractor. Although the City reserves the right to determine and modify the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, the Contractor is responsible for determining the appropriate means and manner of performing the work. The City cannot and will not control the means or manner of the Contractor's performance.

Contractor will be responsible for any federal or state taxes applicable to any compensation or payments paid to Contractor under this contract; the City will not withhold from such compensation or payments any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance, or worker's compensation from compensation paid to Contractor under this contract. Contractor is required to have obtained worker's compensation coverage as a self-employed individual.

**9. Successors & Assignments.** After the original contract is executed, the Contractor shall not enter into any new subcontracts for any of the work required under this contract or assign or transfer ~~any~~ of its interest in this contract, without the prior written consent of the City, which consent shall be in the sole ~~and arbitrary~~ discretion of the City. The provisions of this contract shall be binding upon and shall insure to the benefit of the parties hereto, and their respective successors and assigns.

**10. Compliance with Applicable Law.** Contractor shall comply with all federal, state and local laws, ordinances, and regulations applicable to this contract, including, but not limited to, federal and state civil rights laws. Without in any manner limiting the applicability of the foregoing, Contractor agrees that the provisions of ORS 279.017 and 279.555(2), as well as ORS 279.312, 279.314, 279.316, and 279.320, apply to this contract.

**11. Governing Law and Venue.** This contract shall be governed by and construed in accordance with the laws of the State of Oregon. Any litigation between the City and the Contractor arising out of or related to this contract shall be brought and maintained solely and exclusively in the Circuit Court of Curry County, Oregon; provided, any litigation brought in a federal forum shall be brought and maintained exclusively in the United States District Court for the District of Oregon in Eugene, Oregon. Contractor hereby consents to the personal jurisdiction of all courts within the State of Oregon.

**12. Severability.** The parties agree that if any term ~~or~~ provision of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.



**13. Force Majeure.** Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the contract.

**14. Termination and Default.** This contract may be terminated by written mutual consent of the parties. In addition, this contract may be terminated ~~for convenience~~ by the city, by not less than thirty (30) days written notice to the Contractor specifying the termination date.

Contractor's timely and accurate performance is of the essence of this contract. The City, by delivering written notice of default, may immediately terminate this contract, in whole or in part, if the Contractor:

- (1) fails to perform the work required within the times specified or allowed under this contract; or
- (2) fails to perform any of the provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the City, does not correct such failures within ten (10) calendar days, or such other period as the City may authorize.

Upon receiving a notice of termination, and except as otherwise directed in writing by the City, Contractor shall immediately cease all work related to this contract, and deliver to the City all city property of the City in Contractor's possession.

The rights and remedies of the city provided in the above clause are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

**16. Merger.** This contract constitutes the entire agreement between the parties. The terms of this contract shall not be waived, altered, modified, ~~supplemented~~supplemented, or amended, in any manner whatsoever, except by written instrument. Any such waiver, alternation, modification, supplementation or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if it is signed by all parties to this contract. The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision. There are no understandings, agreements or representations, oral or written, regarding this contract except as specified or referenced herein. Contractor by he/she signature below hereby acknowledges that he/she has read this contract, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed.

\_\_\_\_\_  
Contractor, Scotti Mclain

\_\_\_\_\_  
Date

\_\_\_\_\_  
Pat Cox, Mayor  
City of Port Orford

\_\_\_\_\_  
Date

**CITY OF PORT ORFORD  
JANITORIAL SERVICES**

- 1. Quote flat monthly amount
- 2. "As needed" items should be included in the quote for all buildings, except for the Community Building and the Legion Hall.
- 3. Include an hourly rate for additional services such as at the Legion Hall.
- 4. City will furnish supplies and most tools. Indicate any tools that you will supply.
- 5. City Hall includes entrances, all offices, and hall between police and administrative.



Facility	As needed twice daily June-Sept	Daily	Weekly	Monthly	Twice Monthly	Quarterly	Semi- Annually	Annually
<b>12th Street Bathrooms</b>								
Clean & disinfect all toilets & urinals	x	x						
Inspect & attend to mirrors	x	x						
Clean & sanitize sinks	x	x						
Empty trash containers & replace liners	x	x						
Stock dispensers, paper products & hand soap	x	x						
Sweep & mop floors with disinfectant solution	x	x						
Spot clean walls, partitions, doors, doorknobs & switches	x	x						
Scrub walls, doors & partitions with disinfectant detergent						x		
Polish stainless steel & chrome	x	x						
Entry: remove debris & sweep entrances		x						
Inspect & attend to partitions thoroughly			x					
Dust walls & ceiling vents for cobwebs					x			
Damp wipe vents							x	
Inspect & attend to doors & walls			x					
inspect & attend to ledges				x				
Scrub & seal floors						x		
Clean & disinfect waste receptacles						x		
Inspect & replace inside & outside light bulbs & tubes						x		

Facility	As needed twice daily June-Sept	Daily	Weekly	Monthly	Twice Monthly	Quarterly	Semi- Annually	Annually
<b>Buffington Park Restrooms</b>								
Clean & disinfect all toilets & urinals		x						
Inspect & attend to mirrors		x						
Clean & sanitize sinks		x						
Empty trash containers & replace liners		x						
Stock dispensers, paper products & hand soap		x						
Sweep & mop floors with disinfectant solution		x						
Spot clean walls, partitions, doors, doorknobs & switches		x						
Scrub walls, doors & partitions with disinfectant detergent						x		
Polish stainless steel & chrome					x			
Entry: remove debris & sweep entrances		x						
Inspect & attend to partitions thoroughly				x				
Dust walls & ceiling vents for cobwebs					x			
Damp wipe vents						x		
Inspect & attend to doors & walls						x		
inspect & attend to ledges					x			
Scrub & seal floors						x		
Clean & disinfect waste receptacles						x		
Inspect & replace inside & outside light bulbs & tubes						x		

Facility	As needed twice daily June-Sept	Daily	Weekly	Monthly	Twice Monthly	Quarterly	Semi- Annually	Annually
<b>Visitor Information Center</b>								
Vacuum traffic patterns & mats, remove gum & soil spots			x					
Thoroughly vacuum carpet areas					x			
Shampoo carpet								x
Dust furniture & extinguishers				x				
Dust high vents, lights, pipes & clock							x	
Wash windows inside				x				
Wash windows outside				x				
Spot clean walls, doors, doorknobs & switches					x			
Entry: remove debris & sweep entrances	x							
Entry: remove debris & sweep entrances			x					
Dust walls & ceiling vents for cobwebs						x		
Damp wipe vents						x		
Inspect & attend to doors & walls						x		
inspect & attend to ledges						x		
Clean & disinfect waste receptacles						x		
Inspect & replace inside & outside light bulbs & tubes						x		
<b>Staff Restroom</b>								
Clean & disinfect all toilets & urinals			x					
Facility	As needed twice daily June-Sept	Daily	Weekly	Monthly	Twice Monthly	Quarterly	Semi- Annually	Annually
<b>American Legion Hall</b>								
Clean & disinfect all toilets & urinals					x			
Inspect & attend to mirrors					x			
Clean & sanitize sinks					x			
Empty trash containers & replace liners					x			
Stock dispensers, paper products & hand soap					x			
Sweep & mop floors with disinfectant solution					x			
Spot clean walls, partitions, doors, doorknobs & switches					x			
Scrub walls, doors & partitions with disinfectant detergent					x			
Polish stainless steel & chrome					x			
Entry: remove debris & sweep entrances				x				
Inspect & attend to partitions thoroughly				x				
Dust walls & ceiling vents for cobwebs					x			
Damp wipe vents						x		
Inspect & attend to doors & walls					x			
inspect & attend to ledges					x			
Scrub & seal floors						x		
Clean & disinfect waste receptacles						x		
Clean counter tops & cupboard doors				x				

Facility	As needed twice daily June-Sept	Daily	Weekly	Monthly	Twice Monthly	Quarterly	Semi- Annually	Annually
<b>City Hall Restrooms</b>								
Clean & disinfect all toilets & urinals			x					
Inspect & attend to mirrors			x					
Clean & sanitize sinks			x					
Empty trash containers & replace liners			x					
Stock dispensers, paper products & hand soap			x					
Sweep & mop floors with disinfectant solution			x					
Scrub walls, doors & partitions with disinfectant detergent						x		
Polish stainless steel & chrome				x				
Dust walls & ceiling vents for cobwebs					x			
Damp wipe vents							x	
Inspect & attend to doors & walls				x				
inspect & attend to ledges				x				
Scrub & seal floors						x		
Clean & disinfect waste receptacles						x		
Inspect & replace inside & outside light bulbs & tubes						x		
<b>Admin Offices</b>								
Empty trash containers & replace liners			x					
Facility	As needed twice daily June-Sept	Daily	Weekly	Monthly	Twice Monthly	Quarterly	Semi- Annually	Annually
<b>Council Chambers</b>								
Empty trash containers & replace liners			x					
Inspect & attend to ledges				x				
Straighten chairs			x					
Clean display cases				x				
Thoroughly vacuum carpet areas					x			
Vacuum upholstered furniure				x				
Shampoo carpet								x
Dust all furniture & extinguishers				x				
Dust vents, lights, & clock						x		
Clean interior glass doors & windows						x		
Clean exterior glass & windows						x		
Spot clean walls, doors, doorknobs & switches						x		
Clean and disinfect waste recepticals						x		
Inspect & replace inside & outside light bulbs & tubes						x		

END OF DOCUMENT

# City of Port Orford

## CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Council Liaison Assignments

ITEM NO: 9 C.

The Mayor/City Council customarily makes assignments from within its membership to serve as liaisons to internal and external Commissions and partner agencies. There are eight such assignments. Two of these assignments are currently vacant. Mayor Cox has requested that the assignment list be reviewed, and that assignments be confirmed and/or new assignments made at this meeting. Council liaisons are expected to maintain positive interagency relations and report monthly or as needed to the City Council on matters that may be of City Council interest or require City Council action. Liaisons regularly attend partner agency governing/policy board meetings. Current assignment areas and liaisons are as follows:

Port Orford Rural Fire Protection District (vacant)

Port of Port Orford (Cox)

Port Orford Langlois School District (vacant)

Transient Lodging Tax Committee (Pogwizd)

Parks Commission (Tidey)

Port Orford Main Street Program (Burns)

Watershed Council (Vileisis)

Emergency Management Committee (Burns/Ward)

### *Suggested Motions*

#### *Motion to Approve the Liaison Assignments*

I move to approve the Liaison Assignments

#### *Motion to Approve the Liaison Assignments with changes*

I move to approve the Liaison Assignments with the following changes.....

SUBMITTED BY:

\_\_\_\_\_  
Pat Cox, Mayor

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# City of Port Orford

CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: Workshop RE: Agenda Preparation and Scheduling

ITEM NO: 9 D.

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The City Administrator Pro Tem would like to discuss some methods to improve the flow of matters coming before the City Council for review and policy decisions; better inform the Council on matters requiring action; and make City Council meetings more efficient.

---

### *Suggested Motions*

#### *Motion to Approve the scheduling of Agenda Preparation Workshop*

I move to approve the scheduling of Agenda Preparation Workshop

#### *Motion to Deny the scheduling of Agenda Preparation Workshop*

I move to deny the scheduling of Agenda Preparation Workshop

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SUBMITTED BY:

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Gary Milliman, City Administrator Pro Tem



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# City of Port Orford

## CITY COUNCIL AGENDA DOCUMENTATION

Date: 04/20/2023

SUBJECT: FY 2023-24 Budget Process

ITEM NO: 9 E.

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The City typically begins its annual budget process in early March with the assembly of a preliminary budget. This process includes appointing a Budget Officer (typically the Finance Director or City Administrator) and establishing a schedule for meetings to review the proposed budget. The City is late starting the budget this year due to staffing changes. The City Council appointed a Budget Committee in April 2022, and those citizen appointees may continue to serve. Staff is verifying the interest of the three citizens appointed last year in their continuing to serve. Staff has not yet developed a budget schedule, but adoption of the budget should be completed by June 30, 2023.

### *Suggested Motions*

#### *Motion to Approve the appointment of Budget Officer*

I move to approve the Appointment of City Admin. Pro Tem Gary Milliman as Budget Officer

#### *Motion to Deny the appointment of Budget Officer*

I move to deny the Appointment of City Admin. Pro Tem Gary Milliman as Budget Officer

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SUBMITTED BY:

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Pat Cox, Mayor

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