



AGENDA

Workshop February 17, 2015 at 5:00p.m.

Long Beach City Council Meeting

Regular City Council February 17, 2015 at 7:00 p.m.

Long Beach City Hall - Council Chambers

115 Bolstad Avenue West

5:00 PM CALL TO ORDER

+ WS 15-03 – 2015 Code Amendments – TAB - A

7:00 PM CALL TO ORDER; PLEDGE OF ALLEGIANCE; AND ROLL CALL

Call to order Mayor Andrew, Council Member Linhart, Council Member Hanson,
And roll call Council Member Perez, Council Member Murry, and Council Member Phillips

CONSENT AGENDA – TAB - B

All matters, which are listed within the consent section of the agenda, have been distributed to each member of the Long Beach City Council for reading and study. Items listed are considered routine by the Council and will be enacted with one motion unless a Council Member specifically requests it to be removed from the Consent Agenda to be considered separately. Staff recommends approval of the following items:

- Minutes, February 2, 2015 Regular City Council meeting.
- Payment Approval List for Warrant Registers 55051 - 55097 & 77464 – 77562 for \$200,382.16

BUSINESS

- AB 15-13 – VB Contract – TAB - C
- AB 15-14 – Ordinance 907 Vacation of 10th and 11th Streets NE and Oregon Ave N – TAB - D
- AB 15-15 – Resolution 2015-08, implementation of city safety program – TAB – E
- AB 15-16 – Resolution 2015-09, Clerk/Treasurer position – TAB - F

ORAL REPORTS

- | City Council | Mayor | City Administrator | Department Heads |
|--------------|-------|--------------------|------------------|
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CORRESPONDENCE AND WRITTEN REPORTS – TAB - G

- Correspondence – 2014 Audit Exit Conference with our Auditor
- Correspondence – Letter to Mayor and City from FEMA on our floodplain work
- Correspondence – PD report for January 2015
- Correspondence – SMP Update of Visioning Comments
- Correspondence – Reports on Festival and Events Activities
- Business License –

FUTURE CITY COUNCIL MEETING SCHEDULE

The Regular City Council meetings are held the 1st and 3rd Monday of each month at 7:00 PM and may be preceded by a workshop.
March 2, 2015 – 7:00 pm - City Council Meeting
March 16, 2015 – 7:00 pm – City Council Meeting

PUBLIC COMMENT

At this time, the Mayor will call for any comments from the public on any subject whether or not it is on the agenda for any item(s) the public may wish to bring forward and discuss. Preference will be given to those who must travel. **Please limit your comments to five minutes. The City Council does not take any action or make any decisions during public comment.** To request Council action during the Business portion of a Council meeting, contact the City Administrator at least one week in advance of a meeting.

ADJOURNMENT

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, contact the City Clerk at (360) 642-4421 or advise City Clerk at the meeting.

TAB - A



**CITY COUNCIL
WORKSHOP BILL
WS 15-03**

Meeting Date: February 17, 2015

AGENDA ITEM INFORMATION		
SUBJECT: 2015 Code Amendments	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	GB
	Events Coordinator	
	Finance Director	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
COST: \$9,000	Water/Wastewater Supervisor	

SUMMARY STATEMENT: First cut/comments on draft code amendments. Attached are staff's and counsel's combined recommendations plus an additional memo and recommendations on revisions to our SEPA code from counsel.

I. TITLE 1, ADMINISTRATION

1. Revise Council meeting day of the week, revise when a holiday-revised meeting is held.

A. Regular Meetings: The city council shall meet on the first and third ~~Wednesdays~~ Mondays of each calendar month, with the meetings to commence at the hour of seven o'clock (7:00) P.M. Should the meeting date fall on a holiday, the meeting shall take place on the following Tuesday.~~the city council may cancel or reschedule the meeting at the city council's sole discretion; notification thereof shall be in accordance to state law¹.~~ (Ord. 785, 9-20-2004)

Footnote 1: RCW 35A.13.170 and 42.30.080.

2. Revise appeal language so that a party of record may appeal, not just any person. Refer appeal to Superior Court instead of City Council.

1-8-3: APPEAL:

Any ~~person~~ party of record aggrieved by the decision of the hearing examiner shall have the right to appeal the decision to the ~~city council~~ Pacific County Superior Court. The appeal shall be in writing and delivered to city hall within ~~fourteen (14)~~ twenty-one (21) ~~[14]~~ calendar days of the hearing examiner's decision. No new evidence will be accepted by the Superior Court ~~city council~~. The appeal is limited to the record presented to the hearing examiner. (Ord. 793, 2-16-2005)

II. TITLE 3, FINANCES AND TAXATION

1. Add provisions explaining the application for a refund.

3-10-12: OVERPAYMENT OF TAX:

A. Any person having paid any tax, original assessment, additional assessment, or corrected assessment of any tax may apply to the director within the time limitation for refund provided in this section by applying in writing for a correction of the amount paid, in which application the petitioner shall set forth the reasons the amount in which the tax, interest, or penalty should be refunded.

AB. If, upon receipt of an a timely application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection B of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four (4) years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

BC. The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the director discovers that a refund or credit is due.

CD. Refunds shall be made by means of vouchers approved by the director and by the issuance of a city check or warrants drawn upon and payable from such funds as the city may provide.

DE. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in subsection C of this section, upon the filing with the director a certified copy of the order or judgment of the court.

EF. 1. The director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with Revised Code of Washington 82.32.060 as it now exists or as it may be amended; or

2. If subsection E1 of this section is held to be invalid, then the provisions of Revised Code of Washington 82.32.060 existing at the effective date hereof shall apply. (Ord. 828, 12-17-2007, eff. 1-1-2008)

2. Correct comma placement in first paragraph; Add provisions in second paragraph allowing administrative appeal to hearing examiner for requests for refund.

3-10-16: ADMINISTRATIVE APPEAL:

Any person, except one who has failed to comply with section 3-10-7 of this chapter, aggrieved by the amount of the fee or tax determined by the director to be required under the provisions of this chapter may, pay the amount due, and appeal from such determination by filing a written notice of appeal with the hearings examiner within thirty (30) days from the date written notice of such amount was mailed to the taxpayer. A fifty dollar (\$50.00) filing fee shall be submitted with the appeal, which filing fee is required to process the appeal. The city clerk shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The decision of the hearings examiner shall indicate the correct amount of the fee or tax owing. (Ord. 828, 12-17-2007, eff. 1-1-2008)

The decision of the director on an application for refund under Section 3-10-12 shall be final unless the petitioner files written notice of appeal to the hearings examiner within ten (10) days of the director's action. A fifty dollar (\$50.00) filing fee shall be submitted with the appeal, which filing fee is required to process the appeal. The city clerk shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The decision of the hearings examiner shall affirm, modify, or reverse the decision of the director, and the hearings examiner's decision shall be final.

3. Correct name of court where appeal should proceed.

3-10-17: JUDICIAL REVIEW:

The taxpayer or the city may obtain judicial review of the hearings examiner's ~~administrative~~ decision by applying for a writ of review with the ~~Thurston-Pacific~~ County superior court within thirty (30) days from the date of the hearings examiner's decision in accordance with the procedure set forth in chapter 7.16 Revised Code of Washington, other applicable law, and court rules. ~~Review by the superior court shall be on, and shall be limited to, the record on appeal created before the hearing examiner.~~ The city shall have the same right of review from the administrative decision as does a taxpayer. (Ord. 828, 12-17-2007, eff. 1-1-2008)

3-10-25: SUSPENSION OR REVOCATION OF BUSINESS LICENSE:

B. Any licensee may, within seven (7) days from the date that the suspension or revocation notice was mailed to the licensee, appeal from such suspension or revocation by filing a written notice of appeal setting forth the grounds therefor with the director. A

copy of the petition must be provided by the licensee to the director and the city attorney on or before the date the petition is filed with the hearings examiner. The city clerk shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the hearings examiner shall, after appropriate findings of fact, and conclusions of law, affirm, modify, or overrule the suspension or revocation and reinstate the license, and may impose any terms upon the continuance of the license.

No suspension or revocation of a license issued pursuant to the provisions of this section shall take effect until seven (7) days after the mailing of the notice thereof by the department, and if appeal is taken as herein prescribed the suspension or revocation shall be stayed pending final action by the hearings examiner. All licenses which are suspended or revoked shall be surrendered to the city on the effective date of such suspension or revocation.

The decision of the hearings examiner shall be final. The licensee and/or the department may seek review of the decision by the ~~superior court of Washington in and for Thurston County~~ Pacific County superior court within fourteen (14) days from the date of the decision. If review is sought as herein prescribed the suspension or revocation shall be stayed pending final action by the superior court.

III. TITLE 4, BUSINESS AND LICENSE REGULATIONS

1. Update definition of seller.

4-4-1: DEFINITIONS:

For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section:

SELLER: A single person, ~~or husband and wife~~ married couple, ~~or and~~ any charitable organization.

2. Remove requirements for a permit and limits on number of sales.

~~4-4-2: PERMIT REQUIRED:~~

~~No person shall conduct a garage sale in the city without first obtaining a permit from the city clerk treasurer, which permit shall be without cost to the applicant. (Ord. 645, 9-7-1993)~~

4-4-3: REGULATIONS:

A. ~~No person shall conduct a garage sale in a manner that causes others the loss of quiet enjoyment of their property. Should the city receive complaints, the seller(s) shall modify their sales in such a manner -as to restore quiet enjoyment to those filing the complaint, or shall cease operation. [NOTE FROM GB: COULD THIS LEAD TO UNREGULATED OUTDOOR VENDING? A HOME BUSINESS?] [NOTE FROM DG: WILL THIS LEAD TO PERPETUAL GARAGE SALES?]~~ Number Of Sales Days Limited: No person shall be allowed more than six (6) days to hold garage sales in the calendar year without first obtaining permission from the city council for such additional sales, which permission shall be given only upon good cause being shown that hardship will result if such additional sales are not allowed.

IV. TITLE 6, POLICE AND PUBLIC SAFETY

1. Correct sentence erroneously left incomplete.

6-5-1: PRELIMINARY STATEMENT:

- A. This chapter shall be known as, and may be cited as, the Long Beach criminal code.
 - B. The provisions of this criminal code shall apply to any offense committed on or after ~~on~~ the date of adoption of this code.
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2. Correct name of court where appeal should proceed.

6-5-4: CLASSES OF CRIMES:

Any offense defined by this criminal code for which a sentence of imprisonment is authorized constitutes a violation of city ordinance and is a crime. Crimes are classified as gross misdemeanors or misdemeanors as provided in this code or in each statute adopted by reference. (2007 Code)

3. Include the type of violation committed when throwing water balloons and eggs; should state either that it is an infraction or misdemeanor.

6-5-10: THROWING WATER BALLOONS AND EGGS:

A. Prohibition: It is unlawful to throw or explode any type of water balloon or any other balloon containing a liquid substance, or eggs, at any time, within one hundred feet (100') of either side of Pacific Avenue from the southern right of way of Tenth Street South to the northern right of way of Bolstad Avenue. (1988 Code § 8.04.030)

B. Violation; Penalty: Any person who violates this section has committed an infraction and shall be subject to penalty as provided in section 1-4-1 of this code. If the violator is under the age of eighteen (18), the parents and/or guardian shall be held liable. (1988 Code § 8.04.050; amd. 2007 Code)

V. TITLE 10, BUILDING REGULATIONS

1. Add provision allowing for appeals of administrative decisions relating to the application and interpretation of the various building codes

10-2-12: APPEALS

Appeals of orders, decisions, or determinations made by the building official or fire marshal relative to the application and interpretation of the City's adopted building codes, set forth in Section 10-2-1, and fire code, set forth in Section 10-2-2, shall be to the hearing examiner. Those aggrieved by the decision of the local administrator may appeal such decision to the hearing examiner as provided in section 11-2C-14 of this code.

2. Update the building codes adopted by reference. Add a new exception regarding the use of felt instead of poly weather barriers in certain locations.

10-2-1: BUILDING CODES ADOPTED:

The model codes listed below, as approved and adopted by the state building code council except as noted, together with any amendments or additions, are hereby adopted by this reference. These codes must apply to all new construction, remodeling, or repairs. Copies of the codes are on file for inspection in the office of the building department of the city.

- A. International Building Code – Most current cycle adopted by the State of Washington;
- B. International Existing Building Code – Most current cycle adopted by the State of Washington;
- C. International Residential Code – Most current cycle adopted by the State of Washington, with the following exceptions;
 - 1. For multi-family residential structures of five (5) or more dwelling units, automatic fire sprinkling systems are required;
 - 2. Any structure located west of State Route 103 (also identified as Pacific Highway or Pacific Avenue), or in areas of exposure category C or D, shall use asphalt felt as the water-resistive barrier. Products that incorporate asphalt felt as a component layer of protection will be subject to approval by the Long Beach building inspector.
- D. International Mechanical Code – Most current cycle adopted by the State of Washington;

- E. Uniform Plumbing Code – Most current cycle adopted by the State of Washington;
 - F. Liquefied Petroleum Gas Code (NFPA 54) for LP Gas – Most current cycle adopted by the State of Washington;
 - G. Uniform Housing Code 1997, adopted by the City independently of the Washington State Building Code Council;
 - H. Uniform Swimming Pool, Spa, and Hot Tub Code 2006;
 - I. International Property Maintenance Code 2009, adopted by the city independently of the Washington state building code council;
 - J. Washington state barrier fee regulations;
 - K. National Electrical Code (NFPA 70) – Most current edition as adopted by the State of Washington;
 - L. IECC/Washington State Energy Code – Most current cycle adopted by the State of Washington;
 - M. Washington State Historic Building Code – Most current cycle adopted by the State of Washington; and
 - N. Washington State Ventilation and Indoor Air Quality Code. (Ord. 889, 4-13-2013)
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3. Update date of adopted International Fire Code.

10-2-2: FIRE CODE:

- A. International Fire Code Adopted: The most current cycle adopted by the State of Washington 2012-international fire code is hereby adopted in its entirety for the purpose of describing regulations governing conditions hazardous to life and property, fire, or explosion.
 - 1. The city does not adopt section 903.2.8: Group R requiring automatic sprinkler systems in all residential dwellings in its entirety. The city does not require such systems in residential buildings of four (4) or fewer dwelling units.
- B. Applicability:
 - 1. The provisions of this section shall apply to all buildings constructed or developed within the city limits, when the buildings will be served by water mains and fire

hydrants capable of delivering the required fire flow and installed as required by this section, unless specifically exempted by this section, or unless waived or modified by the fire marshal.

2. Decisions of the fire marshal are deemed to be made in the best interest of, and with the concurrence of, an affected fire district in the absence of any credible evidence to the contrary. (Ord. 889, 4-13-2013)

10-2-4: BUILDING PERMITS AND FEES:

A. Permit Requirements:

1. Permit Required: No building or other structure may be erected, moved, added to, or structurally altered without a permit issued by the building official. No building permit may be issued except in conformity with the provisions of this title.
2. Application aAnd Accompanying Documents: All applications for building permits must be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building or alteration. The application must include such other information as lawfully may be required by the building official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this title.
3. Plans Required: One copy of the plans will be returned to the applicant by the building official after marking such copy approved or disapproved and attest to same by having signed such copy. The second copy of the plans will be retained by the building official.
4. Time Limit To Begin Work: If work described in any building permit has not begun within one hundred eighty (180) days from the date of issuance of the permit, the permit will expire, unless an extension(s) has been granted in writing by the building official for periods no more than one hundred eighty (180) days each. The permit will be canceled by the building official, and written notice must be given to the applicant. (Ord. 847, 8-17-2009)

B. Building Permit Fees:

1. The city hereby adopts by reference building permit fees, which are set forth in table 1-A of the 1997 uniform building code as amended and the building valuation data schedule as published in the most current "Building Safety Journal" of the International Code Council and are on file for inspection in the building department at the Long Beach city hall. Values of structures not listed in the schedule herein will be determined by a bid from a licensed contractor. Permit fees for work other than new construction and additions or not otherwise listed, including, but not limited to, alterations, remodeling, mechanical permits and demolition, shall be established by resolution of the city council.

a. All valuations that are less than \$5,000.00 will be doubled for the purpose of calculating permit fees.

2. Additionally, the fees for manufactured house placement are as follows:

Singlewide	\$250 .00
Doublewide	350 .00
Triplewide	450 .00

3. Once an application is made and fee paid, an applicant may withdraw the application. If at the time of withdrawal plan review is not yet initiated, the city may refund up to fifty percent (50%) of the building permit fee. Once plan review is initiated, the city will retain the entire fee and refund shall not occur. (Ord. 868, 4-4-2011)

4. In accordance with Section 109.4 of the International Building Code, all work commencing before issuance of a building permit will result in a monetary fee of 100% of the building permit fee in addition to the permit fee^[u2].

C. Water and Sewer Connection: No building permits for primary use structures shall be issued without the applicant having first paid water and sewer connection fees and secured a side sewer permit. (Ord. 847, 8-17-2009)

5. Staff is waiting on input from FEMA to make revisions consistent with the new maps. FEMA is actually conducting that review for us.

10-4 FLOOD PROTECTION

VI. TITLE 11, UNIFIED DEVELOPMENT REGULATIONS

1. Revise multiple areas of code to remove appeal authority from City Council and add it to either the hearing examiner or the PacCo Superior Court.

11-2A-1: CITY COUNCIL: In addition to other powers and duties prescribed in this code, the city council is vested with the authority to:

- A. Approve, approve with conditions or modifications, or deny applications for amendments to the comprehensive plan or this title, amendments to title 12 (Zoning), rezones, and annexation by direct petition, after considering the findings and recommendations of the planning commission.
- B. Review findings and recommendations of the planning commission regarding applications.
- C. Base all decisions on the criteria established in this title or other applicable laws.
- D. Require any applicant granted final plat approval to post a bond or other acceptable security with the city to assure the applicant and/or his successors in interest shall adhere to the approved plat and all conditions attached to the final plat approval.
- E. Review and act upon any recommendations of the community development director or planning commission for amendments to or revisions of the comprehensive plan or the provisions of this title.
- ~~F. Hear appeals from hearing examiner and/or administrative permit decisions as specified in this title.~~
- FG. Perform other duties as outlined in the latest edition of the “City of Long Beach Shoreline Master Program” and the latest edition of the “City of Long Beach Comprehensive Flood Hazard Management Plan”.
- GH. Perform other duties as outlined in this title.

11-2C-4: PROJECT REVIEW PROCEDURES: The Community Development Director shall have authority to classify any permit not expressly classified or indicated by this title. Review of a proposed action shall be by one of the following procedures, in increasing order of discretion utilized: minor administrative (ministerial), administrative, hearing examiner, or legislative.

- D. Legislative review shall be conducted in those circumstances where the city council is exercising its authority as a quasi-judicial decision-making body for

actions including and not limited to ~~appeals of hearing examiner decisions~~, final plats, changes to codes, and re-zonings. Substantial to complete discretion may be exercised by the city council as reviewer. Legislative review shall be subject to all permit processing procedures described in subsection 11-2C-3A of this title.

11-2C-14: APPEALS:

D. Administrative Decisions. An aggrieved person who is a party of record may appeal any final decision of an administrative official to the hearing examiner ~~(except for administrative design review decisions appealed to the city council under section 12-10-8 of title 12 [Zoning])~~. The appeal must be in writing in accordance with this title and shall be filed with the city clerk within fourteen (14) days of the date of the action being appealed. If an open record public hearing was not held as part of the administrative approval, then the hearing examiner shall conduct an open record hearing. Otherwise, the appeal to the hearing examiner shall be a closed record appeal.

~~1. When an appeal of an administrative design review decision is made subject to procedures of section 12-10-8 of title 12 (Zoning), the city council shall request a recommendation from the planning commission before taking action.~~

E. Planning Commission Decisions. An aggrieved person who is a party of record may appeal a planning commission decision to the ~~hearing examiner city council~~. The appeal must be in writing in accordance with this Title and shall be filed with the city clerk within fourteen (14) days of the date of the action being appealed. If an open record public hearing was not held as part of the planning commission decision, then the ~~hearing examiner city council~~ shall conduct an open record hearing. Otherwise, the appeal to ~~the hearing examiner city council~~ shall be a closed record appeal.

F. Hearing Examiner Decisions. An aggrieved person who is a party of record may appeal a hearing examiner decision to the ~~Pacific County Superior Court~~^[u3] ~~city or to the appropriate Shorelines Hearings Board or Growth Management Hearings Board~~^[u4] ~~city council, if the examiner's decision is not a "final action"~~. The appeal must be in writing in accordance with this title and shall be filed with the city clerk within ~~fourteen (14)~~ ~~twenty-one (21)~~ days ^[u4] of the date of the action being appealed. If an open record public hearing was not held as part of the hearing examiner decision, then the ~~Pacific County Superior Court city council~~ shall conduct an open record hearing. Otherwise, the appeal ~~proceeding of the to the Pacific County Superior Court city council~~ shall be a closed record appeal. In the case of appeals from Administrative Decisions, all decisions under the Shorelines Management Act, and any other decision of the hearing examiner that is designated in the Long Beach Municipal Code as a final action, the appeal is to:

1. Pacific County Superior Court if it is subject to the Land Use Petition Act (RCW 36.70C);

2. The Shorelines Hearings Board if it is a Shorelines Management Act decision;
or
3. To the appropriate Growth Management Hearings Board if it is an action subject to the Growth Management Act (RCW 36.70A).

11-4C-10: APPEALS: The decision of the hearing examiner on the preliminary plat may be appealed to the Pacific County Superior Court ~~city council~~ in accordance with section 11-2C-14 of this title.

- 2. In combination with the suggested changes for Title 12 to eliminate the Council's quasi-judicial authority to grant an exception or exemption to the City's design requirements, this new provision would still provide a process for obtaining a variance from those design requirements, which is consistent with the process for obtaining variances from other building code provisions.**

11-2D-1: VARIANCES:

B. Required Showings, Title 12 Variances: Before any variance may be granted, it shall be shown:

1. Strict application of the bulk, dimensional or performance standards set forth in this title precludes or significantly interferes with a reasonable use of the property not otherwise prohibited.
2. Need for the variance is directly related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the zoning regulations and not, for example, from deed restrictions or the applicant's own actions.
3. The design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties.
4. The requested variance does not constitute a grant of special privilege not enjoyed by other properties in the area, and is the minimum necessary to afford relief.
5. The public interest will not suffer any substantial detrimental effect.
6. To grant a variance from the city's design requirements in Title 12, Chapter 10 for additions or modifications to existing nonresidential buildings that do not

conform to the design requirements, the hearing examiner must also take the following into consideration:

- a. The hearing examiner must make an affirmative finding that a strict enforcement of the design requirements would result in a building appearance or site condition substantially incompatible with the existing building.
- b. No variance from the city's design requirements shall be granted to any nonconforming use.
- c. No variance from the city's design requirements shall be granted to any structure that is in violation of any bulk, density, or setback standard.
- d. No variance from the city's design requirements shall be granted for accessory structures on a single property.
- e. Any proposed addition shall contain at least one common wall to the existing structure.
- f. No variance from the city's design requirements shall be granted if:
 1. For buildings with an existing floor of one thousand (1,000) square feet or less, the addition exceeds five hundred (500) square feet; or
 2. For buildings with an existing floor area greater than one thousand (1,000) square feet, the proposed addition is greater than fifty percent (50%) of the existing building.

3. Add definition of vesting.

11-1-7: INTERPRETATION:

D. Definitions: Unless specifically defined below, words or phrases used in this title shall be interpreted so as to give them the meanings they have in common usage and to give this title its most reasonable application. For purposes of this title, the following words and terms shall have the meanings designated in this section:

VESTING: A land use application is considered under only the land use statutes and ordinances in effect at the time the city deems the application complete.

4. Add language describing vesting.

11-11-11: VESTING OF APPLICATIONS:

- A. This section applies in the context of building permit applications (RCW 19.27.095), short subdivision and subdivision applications (RCW 58.17.033), and development agreements (RCW 36.70B.180), [u5]
- B. An application described herein utilizing vested rights shall be subject to all land use and development statutes, regulations, and ordinances in effect on the vesting date.
- AC. Applications shall be considered vested on the date a written determination of completeness is mailed (postmarked) or hand delivered to the applicant or the applicant's designee. The director's issuance of a written determination of completeness pursuant to 11-2C-8, or the failure of the director to provide such a written notice within twenty-eight (28) dsays of the date it is mailed or hand delivered, shall cause an application to be conclusively deemed vested. The applicable date is known as the vesting date.
- BD. Supplemental information required after vesting of a complete application shall not affect the validity of vesting for such application unless the information is requested because incorrect information is submitted by the applicant and if the incorrect information would materially affect the final decision on the application.
- CE. Modifications required by the director to a pending application, other than those set forth in subsection B of this section, shall not be deemed a new application and shall not affect vesting.
- DF. An applicant-requested modification occurring either before or after issuance of the permit shall eliminate vesting, when such modification would result in a substantial change in a project's review requirements, as determined by the director. Under such a condition, the application will be deemed a new application. Examples of a substantial change include modifications resulting in a different type of decision (e.g., Administrative to Hearing Examiner), or a change requiring a new SEPA threshold determination. Modifications that reduce the scope of a proposal or reduce environmental impacts would not be considered a substantial change.
- G An application that is deemed complete is vested for the specific use, density, and physical development that is identified in the application submittal.
- EH. Building permits that may subsequently be required to construct or complete a vested land use project shall be considered new applications under the building code and shall be subject to the edition of the building code in place at the time application is made.
- FI. Nothing herein shall restrict the director's authority to impose conditions on project permits pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW and WAC 197-11-600.
- GJ. Nothing herein shall be construed to restrict the director's ability, to the extent otherwise permitted by law, to apply new regulations to a project permit or project permit application upon a finding that a change in conditions creates a serious threat to the public health and safety.
- K. If the application expires, a new application may be filed with the city but will not be considered vested under the expired application and instead shall be subject to the development regulations in effect on the date of the new application.

VII. TITLE 12, ZONING REGULATIONS

1. **Protect Council from being the primary decision-makers for quasi-judicial actions. This is at the advice of WCIA based on a recent land-use audit. One Councilor has asked if this should be expanded to include residential as well. This is probably a good issue for discussion.**

12-10-3: DESIGN APPROVAL REQUIRED:

~~E. — Exceptions: The city council may, at its sole discretion, grant an exception to the city's design requirements for additions or modifications to existing **nonresidential** buildings that do not conform to the design requirements. Such an exception will be approved upon an affirmative finding that a strict enforcement of said requirements would result in a building appearance or site condition substantially incompatible with the existing building. In considering any request for exception, the city council shall apply the following standards:~~

- ~~1. No exception shall be granted to any nonconforming use.~~
- ~~2. No exception shall be granted to any structure that is in violation of any bulk, density, or setback standard.~~
- ~~3. No exception shall be granted if:
 - ~~a. For buildings with an existing floor of one thousand (1,000) square feet or less, the addition exceeds five hundred (500) square feet; or~~
 - ~~b. For buildings with an existing floor area greater than one thousand (1,000) square feet, the proposed addition is greater than fifty percent (50%) of the existing building.~~~~
- ~~4. No property shall receive more than one exception in a calendar year.~~

~~12-10-9: EXEMPTIONS:~~

~~The city council may, at its sole discretion, grant an exemption to the city's design requirements for additions or modifications to existing nonresidential buildings that do not conform to the design requirements. Such an exemption will be approved upon an affirmative finding that a strict enforcement of said requirements would result in a building appearance or site condition substantially incompatible with the existing building. In considering any request for exemption, the city council shall apply the following standards:~~

- ~~A. No exemption shall be granted to any nonconforming use.~~

~~B. No exemption shall be granted to any structure that is in violation of any bulk, density, or setback standard.~~

~~C. No exemption shall be granted if:~~

~~1. For buildings with an existing floor of one thousand (1,000) square feet or less, the addition exceeds five hundred (500) square feet; or~~

~~2. For buildings with an existing floor area greater than one thousand (1,000) square feet, the proposed addition is greater than fifty percent (50%) of the existing building.~~

~~D. No property shall receive more than one exemption.~~

~~E. No exemption shall be granted for accessory structures on a single property.~~

~~F. The addition shall contain at least one common wall to the existing structure. (Ord. 849, 8-17-2009)~~

2. Correct bad reference regarding appeals.

12-3-4: APPEALS: Appeals of all decisions pertaining to this title are governed by the provisions of section 11-2C-~~13~~14 of title 11, Unified Development, of the Long Beach City Code.

3. Revise language about appeals to be consistent with new language in Title 11.

12-10-8: APPEAL: The decision of the approving authority shall be final unless, within fourteen (14) days from the rendering of the decision, the applicant or any other party with standing files an appeal. Appeals of any administrative or planning commission decision shall be made to the ~~city council~~hearing examiner and shall be an open record hearing. Appeals of any hearing examiner ~~city council~~ decision shall be made to Pacific County ~~S~~superior Ceourt. Appeals shall be conducted pursuant to the procedures set forth in section ~~12-3-4~~ of this title and section 11-2C-14 of title 11 (Unified Development). ~~[u6]~~The filing of such an appeal within said time limit shall stay the decision of the city until such time as the appeal has been adjudicated or withdrawn. ~~When any appeal of an administrative decision is made, the city council shall request a recommendation from the planning commission before taking action.~~

4. Add definition of “camping” to code.

12-2-1: TERMS DEFINED:

CAMPING: A temporary activity of living in a camp, campground, or vehicle. Erecting a tent or shelter or arranging bedding or both for the purpose of, or in such a way as will permit remaining overnight, or parking a trailer, camper, RV, or other vehicle for the purpose of remaining overnight.

5. Define camping, prohibit camping in public areas; explicitly include camping in the RV section.

12-11-5: RECREATIONAL VEHICLES AND EQUIPMENT, CAMPING:

B. Camping and Use of RVs: No person shall park and occupy a recreational vehicle (RV) nor shall camp, except:

1. At a duly licensed RV park or campground.
2. As a guest of a resident, and then only upon private property, and for a period not to exceed fifteen (15) continuous days, or thirty (30) days total in a calendar year.
3. On private property by the owner for his own use, but not to exceed sixty (60) days in a calendar year. An RV stored on an otherwise vacant lot shall be considered occupied for purposes of this section. An RV connected to water and/or sewer shall also be considered occupied.
4. No more than two (2) RVs may be used on a lot that is not an RV park. Such RVs may be placed upon a lot for not more than sixty (60) days' total use per year. Each day of use of each RV shall be counted as a day of use. Parking and use of more than two (2) RVs on a lot may be permitted by the city council upon an application to the city council for a special use permit.
5. Occupancy of a trailer or other recreational equipment not designed to be temporary living accommodations is not permitted. Occupancy of a boat regardless of whether such vessel contains living accommodations is not permitted.
6. Occupancy of an RV as a manager's unit shall only be permitted in a licensed RV park or campground, or in the C2 or LI zones, subject to approval by the reviewing authority.

7 Parking of all vehicles at a site, including one or more RVs must comport to the requirements of Chapter 12 of this title.

C. Camping on Public Property. It is unlawful for any person to camp on any City-owned or City-controlled property, any public park, or any public right-of-way.

6. Revise definition of “RV Park”.

12-2-1: TERMS DEFINED:

RECREATIONAL VEHICLE PARK: Any lot or parcel on which two (2) or more sites are located, established or maintained for itinerant, short-term or long-term occupancy by recreational vehicles or for their storage for a fee ~~as temporary living quarters for recreation or vacation purposes~~. Each non-storage site shall include individual connections for electricity and sanitary services. A recreational vehicle park may also include amenities for the use of the occupants, including but not limited to laundry, showers, game room, recreation, or restaurant.

7. Better define the elements and allowable sub-uses of an RV park.

12-11-19: RECREATIONAL VEHICLE PARKS; REQUIREMENTS:

A. License Required: No person shall operate a recreational vehicle (RV) park within the corporate limits of the city without first obtaining a business license as required by title 4 (Business and License Regulations), and any necessary approvals required by the zone district in which the property is located, including a conditional use permit and design review.

B. Allowable Uses and Use Allocation

1. An RV park may include itinerant, short-term, and long term spaces, as well as storage areas as follows:
 - 1a. Itinerant spaces (30 days or less): up to 100% of total spaces; a minimum of XX%.
 - 1b. Short-term spaces (more than 30 days and less than 4 months): a maximum of XX% of total spaces.
 - 1c. Long-term spaces (more than 4 months): a maximum of XX% of total spaces.
 - 1d. Storage (unoccupied): a maximum of XX% of total spaces or XX% of total acreage, whichever is less.
2. Non-conforming Use Allocation. Any non-conforming allocation existing at the time of passage of this ordinance shall be corrected the next time a non-conforming space is occupied. No new non-conforming uses shall be allowed.

3. Sunset Date for Existing Non-conforming Use Allocation. Notwithstanding other sections of this code, all existing RV parks shall be made to conform to the allowable use allocation no later than December 31, 2020.

CB. Recreational or Open Space Development:

1. RV parks with an area of ten (10) acres or less shall be required to develop a minimum of ten percent (10%) of the total area for recreational or open space purposes.
2. RV parks with an area greater than ten (10) acres shall be required to develop a minimum of twenty percent (20%) of the total area for recreational or open space purposes.
3. The required open space may include amenities for the use of guests, such as recreational facilities and picnic areas. It shall not include the area within the individual RV spaces.

DC. Off Street Parking: Parking shall be provided as required by chapter 12 of this title.

ED. Ingress and Egress:

1. Driveways for ingress and egress shall comply with the requirements of section 11-5-1(D) of title 11 (Unified Development) and with the requirements of subsection D3 of section 12-12-2 of this title.
2. Street access shall be limited to driveways serving the entire RV park. All access to individual RV spaces shall be from within the property. The access of an RV space directly from the street shall be prohibited.

FE. Interior Circulation and Driveways:

1. Interior driveways shall have a width of not less than fifteen feet (15') for a one-way drive and not less than twenty feet (20') for a two-way drive, exclusive of on-site parking.
2. Driveways and parking surfaces within the park and RV parking sites shall be properly surfaced with gravel or asphalt.

GF. Landscaping: Landscaping shall be provided as required by chapter 13 of this title. Landscaping shall be provided around the perimeter of the site, to provide screening from the street and adjacent properties and to beautify the park.

1. Wherever possible, existing tree cover and natural vegetation shall be maintained.

2. There shall be one (1) tree for every ten (10) RV spaces.

3. Any RV park that has more than XX% long-term spaces shall provide a fenced area for children to play.

HG. Fences: Fences may be incorporated into the landscaping design. Chain link fences shall not be used on the perimeter of the site, unless approved by the reviewing authority.

IH. Sanitary Facilities: Sanitary facilities and sewer connections shall be provided as required by section 10-2-3 of title 10 (Building Regulations).

8. Prohibit the enlargement or expansion of a nonconforming use. Currently, the code only prohibits the enlargement or expansion of a nonconforming structure and prohibits change in a nonconforming use. Common law indicates that courts may perceive a change in use to be different from an enlargement or expansion.

12-16-5: EXPANSION OR ALTERATION:

No existing nonconforming structure may be enlarged, expanded in use or reconstructed, except to a conforming use in the district. Ordinary maintenance and repair work may be done in nonconforming uses. (Ord. 849, 8-17-2009)

No existing nonconforming use activity shall be expanded, enlarged, or altered unless the expansion, enlargement, or alteration makes the use more conforming or is required by law.

VIII. TITLE 13, CRITICAL AREAS

1. **Allow for maintenance of private property in wetlands and buffers, if no net loss. Allow people to maintain their property if it includes wetlands.**

13-3-9: EXEMPTIONS: The following developments, activities, or associated uses are exempt from provisions of this title, provided they are consistent with provisions of other applicable local, state, and federal laws and requirements:

- B. **Vegetation management** that is part of ongoing maintenance of uses, facilities, infrastructure, public rights-of-way, or utilities, provided the vegetation management activity does not expand further into the critical area or its buffer is exempt.

IX. TITLE 14, ENFORCEMENT

1. Insert language requiring site access to be obtained from Superior Court.

14-3-2: ENFORCEMENT METHOD NO. 2: NOTICE OF VIOLATION AND ABATEMENT:

- B. The Notice of Violation and Abatement shall contain the following:
 1. Statement that if the responsible party to whom the Notice of Violation and Abatement is issued fails to submit a Notice of Appeal within fourteen (14) calendar days of issuance or fails to voluntarily abate the nuisance within the time specified in the Notice of Violation and Abatement, the City may abate the nuisance upon issuance of an abatement order or other written permission to access the site for purposes of abatement from the Pacific County Superior Court;

14-3-3: ENFORCEMENT METHOD NO. 3: NOTICE OF VIOLATION, CIVIL PENALTY AND NOTICE THEREOF, ABATEMENT:

- B. The Notice of Violation shall contain the following:
 6. Statement that abatement procedures, as described in this chapter, may be implemented if civil penalties reach more than \$1,000 upon issuance of an abatement order or other written permission to access the site for purposes of abatement from the Pacific County Superior Court;

14-5-1: ABATEMENT PROCESS:

- A. Access. ~~Using any lawful means~~ Upon receiving an abatement order or other written permission to access the subject property from the Pacific County Superior Court, the City may enter upon the subject property or premises and may remove or correct the condition that is subject to abatement. If the owner of the premises does not consent to entry, the City may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

MEMORANDUM TO THE CITY OF LONG BEACH

To: Gayle Borchard, Planning Director
FROM: Darcey Eilers, Attorney
DATE: Thursday, January 29, 2015
RE: Title 5 Code Review

You asked me to review the City of Long Beach's code. The following are my recommendations for amending Title 5, all of which relate to Chapter 1 regarding the SEPA rules. I did not find anything in the remaining chapters of Title 5 that I would recommend changing at this time.

Title 5, Chapter 1 contains a number of references to Washington Administrative Code (WAC) 173, which sets forth the SEPA regulations specifically applicable to the Department of Ecology. To begin, the Model SEPA Ordinance in chapter 173-806 WAC has been repealed, although the Department of Ecology has made it available as "guidance" rather than as a rule. Because WAC 173-806 no longer exists, references to this section are inadequate. Instead, the applicable WACs for the City are contained in WAC 197, which sets forth the generally applicable SEPA rules. I recommend that this chapter be amended to remove most references to WAC 173 and instead reference the applicable section from WAC 197 where necessary or desired.

Here are more specific recommendations. First, in Section 5-1-1(G), regarding time limits for the SEPA process, I would recommend stating something to the effect that the time estimates contained in this section shall not be construed to be mandatory.

Second, the City code currently has Section 5-1-2 on categorical exemptions and then also has Section 5-1-8, similarly regarding categorical exemptions. To reduce confusion and for ease of reference, I suggest that these sections be combined.

Third, I am unsure why the City did not adopt by reference WAC 197-11-440, regarding "EIS Contents," when it adopted a number of other related EIS provisions by reference in Section 5-1-3. Similarly, it is not clear why the City did not adopt by reference WAC 197-11-736, defining "determination of significance (DS)", and 197-11-772, defining "NEPA," when it adopted number of other definitions by reference in Section 5-1-7.

Fourth, the provision on severability is buried in Section 5-1-9 on agency compliance. Because this severability clause seems to stand alone, I recommend that it be given its own separate section.

On a larger scale note, it appears that updates have not been made following the 2014 amendments to the SEPA rules. Of particular interest, these amendments increased the flexible thresholds that local governments may adopt to exempt minor new construction projects from SEPA review, increased the threshold for electric facilities, and improved the efficiency of the environmental checklist. If the City desires to raise these flexible thresholds to the new maximum levels, the SEPA Rules now require certain types of

findings in the ordinance, and the City must be able to demonstrate that the development regulations provide adequate protection of the natural and built environment, including cultural resources, before increasing the threshold levels. WAC 197-11-800(c) sets forth the requirements for raising the exempt levels.

I hope this information has been helpful. Please let me know if you would like additional information or proposed ordinance language.

Respectfully,

Darcey Eilers

III. TITLE 5, HEALTH, SANITATION AND ENVIRONMENT

1. Revise language to remove references to Washington Administrative Code 173; adopt additional WACS by reference; make additional changes.

5-1-1: GENERAL REQUIREMENTS:

A. Authority (~~Washington Administrative Code 173-806-010~~):

1. The city adopts this chapter under the state environmental policy act (SEPA), Revised Code of Washington 43.21C.120, and the SEPA rules, Washington administrative code 197-11-904.
2. This chapter contains the city's SEPA procedures and policies.
3. The SEPA rules, Washington administrative code chapter 197-11, must be used in conjunction with this chapter. (1988 Code § 16.04.010)

B. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-020~~):

This section contains the basic requirements that apply to the SEPA process. The city adopts the following sections of Washington administrative code chapter 197-11 by reference:

WAC 197-11-040 Definitions

-050 Lead agency

-055 Timing of the SEPA process

-060 Content of environmental review

-070 Limitations on actions during SEPA process

-080 Incomplete or unavailable information

-090 Supporting documents

-100 Information required of applicants

(1988 Code § 16.04.020)

C. Additional Definitions (~~Washington Administrative Code 173-806-030~~):

In addition to those definitions contained within Washington administrative code 197-11-700 through 197-11-799, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

DEPARTMENT: Any division, subdivision or organizational unit of the city established by ordinance, rule or order.

EARLY NOTICE: The city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance [DNS] procedures).

ORDINANCE: The ordinance, resolution or other procedure used by the city to adopt regulatory requirements.

SEPA RULES: Washington administrative code chapter 197-11 adopted by the department of ecology. (1988 Code § 16.04.030)

D. Designation Of Responsible Official (~~Washington Administrative Code 173-806-040~~):

1. For those proposals for which the city is the lead agency, the responsible official shall be the city administrator or such other person as designated in writing by the mayor. (1988 Code § 16.04.040; amd. 2007 Code)

2. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS) and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference ~~in Washington administrative code 173-806-020~~.

3. The city shall retain all documents required by the SEPA rules (Washington administrative code chapter 197-11) and make them available in accordance with Revised Code of Washington chapter 42.17. (1988 Code § 16.04.040)

E. Lead Agency Determination And Responsibilities (~~Washington Administrative Code 173-806-050~~):

1. The department within the city receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under Washington administrative code 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the department or agency is in the process of determining the lead agency.

2. When the city is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

3. When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under

Washington administrative code 197-11-600. In some cases the city may conduct supplemental environmental review under Washington administrative code 197-11-600.

4. If the city or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of Washington administrative code 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen (15) days of receipt of the determination or the city must petition the department of ecology for a lead agency determination under Washington administrative code 197-11-946 within the fifteen (15) day time period.

5. Departments of the city are authorized to make agreements as to lead agency status or shared lead agency duties for proposal under Washington administrative code 197-11-942 and 197-11-944; provided, that the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.

6. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify ~~which~~ other agencies have with jurisdiction over the proposal. (That is: Which agencies require nonexempt licenses?) (1988 Code § 16.04.050)

F. Transfer Of Lead Agency Status To State Agency (~~Washington Administrative Code 173-806-053~~): For any proposal for a private project whether the city would be the lead agency and for which one or more state agencies have jurisdiction, the city's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in Washington administrative code 197-11-936 shall be the lead agency and the city shall be the agency with jurisdiction. To transfer lead agency duties, the city's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the city shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. (1988 Code § 16.04.060)

G. Time Limits (Washington Administrative Code 197-11-310): The ~~following~~ time limits (expressed in calendar dates) contained in this section shall apply when the city processes licenses for all private projects and those governmental proposals submitted to the city by other agencies~~:-~~. For the purpose of this section, the word "day" shall mean a day upon which the city's administrative offices are open for business. These time estimates shall not be construed to be mandatory. (1988 Code § 16.04.070; amd. 2007 Code)

1. Categorical Exemptions: The city shall identify whether an action is categorically exempt within seven (7) days of receiving a completed application.

2. Threshold Determinations:

a. The city should complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen (15) days of the date an applicant's adequate application and completed checklist are submitted.

b. When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:

(1) The city should request such further information within fifteen (15) days of receiving an adequate application and completed environmental checklist;

(2) The city shall wait no longer than thirty (30) days for a consulted agency to respond;

(3) The applicant shall have 180 days to submit additional information requested before the permit application expires.

~~(4)~~ The responsible official should complete the threshold determination within fifteen (15) days of receiving the requested information from the applicant or the consulted agency.

c. When the city must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the city should complete the studies within thirty (30) days of receiving an adequate application and a completed checklist.

d. The city shall complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impact(s) described in the application, within fifteen (15) days of receiving an adequate application and completed checklist. (1988 Code § 16.04.070)

e. The city may extend the threshold determination to fifteen (15) days after receipt of a changed or clarified proposal, environmental checklist, and/or permit application.

H. Additional Timing Considerations ~~(Washington Administrative Code 173-806-058)~~:

1. For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the city's staff recommendation to any appropriate advisory body, such as the planning commission.

2. If the city's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in

writing that the city conduct environmental review prior to submission of the detailed plans and specifications. (1988 Code § 16.04.080)

5-1-2: CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS:

A. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-065~~): This section contains the rules for deciding whether a proposal has a probable significant, adverse environmental impact requiring an environmental impact statement (EIS) to be prepared. This section also contains rules for evaluating the impacts of proposals not requiring an EIS. The city adopts the following sections by reference, as supplemented in this ~~section~~chapter:

WAC 197-11-300 Purpose of this part

-305 Categorical exemptions

-310 Threshold determination required

-315 Environmental checklist

-330 Threshold determination process

-335 Additional information

-340 Determination of nonsignificance (DNS)

-350 Mitigated DNS

-360 Determination of significance (DS/initiation of scoping)

-390 Effect of threshold determination

WAC 197-11-800 Categorical exemptions

-880 Emergencies

-890 Petitioning DOE to change exemptions

(1988 Code § 16.04.090)

B. Flexible Thresholds For Categorical Exemptions (~~Washington Administrative Code 173-806-070~~): The city establishes the following exempt levels for minor new construction under Washington administrative code 197-11-800(1)(b) based on local conditions:

1. For residential dwelling units in Washington administrative code 197-11-800(1)(b)(i): up to twenty (20) dwelling units;

2. For agricultural structures in Washington administrative code 197-11-800(1)(b)(ii): up to thirty thousand (30,000) square feet;
3. For office, school, commercial, recreational, service or storage buildings in Washington administrative code 197-11-800(1)(b)(iii): up to twelve thousand (12,000) square feet and up to forty (40) parking spaces;
4. For parking lots in Washington administrative code 197-11-800(1)(b)(iv): up to forty (40) parking spaces;
5. For landfills and excavations in Washington administrative code 197-11-800(1)(b)(v): up to five hundred (500) cubic yards. (1988 Code § 16.04.100)

C. Exemption Use (~~Washington Administrative Code 173-806-080~~):

1. ~~Each department within the city that~~ When the city receives an application for a license or, in the case of governmental proposals, ~~the a department initiating initiates the a proposal, the responsible official shall determine if the application and/or proposal is~~ exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.

2. In determining whether or not a proposal is exempt, the ~~department responsible official~~ shall make certain the proposal is properly defined and shall identify the governmental licenses required (Washington administrative code 197-11-060). If a proposal includes exempt and nonexempt action, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.

3. If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

a. The city shall not give authorization for:

- (1) Any nonexempt action,
- (2) Any action that would have an adverse environmental impact,
- (3) Any action that would limit the choice of alternatives;

b. A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

c. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved. (1988 Code § 16.04.110)

D. Environmental Checklist (~~Washington Administrative Code 173-806-090~~): A completed environmental checklist in the form provided in Washington administrative code 197-11-960 shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter; except, a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The city shall use the environmental checklist to determine the lead agency and, if the city is the lead agency, for determining the responsible official and for making the threshold determination. (1988 Code § 16.04.120)

E. Mitigated DNS (~~Washington Administrative Code 173-806-100~~):

1. As provided in this section and Washington administrative code 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarification of, the proposal made by the applicant.

2. An applicant may request in writing early notice of whether a DS is likely under Washington administrative code 197-11-350. The request must:

a. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

b. Precede the city's actual threshold determination for the proposal.

3. The responsible official should respond to the request for early notice within seven (7) working days. The response shall:

a. Be written;

b. State whether the city currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the city to consider a DS; and

c. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarification.

4. As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

5. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal:

a. If the city indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city shall issue and circulate a DNS under Washington administrative code 197-11-340(2).

b. If the city indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city shall make the threshold determination, issuing a DNS or DS as appropriate.

c. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or construct two hundred foot (200') storm water retention pond at Y location are adequate.

d. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

6. The mitigated DNS issued under Washington administrative code 197-11-340(2) requires a fifteen (15) day comment period and public notice.

7. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.

8. If the city's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with Washington administrative code 197-11-340(3)(a) (withdrawal of DNS).

9. The city's written response under subsection E2 of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination. (1988 Code § 16.04.130)

5-1-3: ENVIRONMENTAL IMPACT STATEMENT (EIS):

A. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-110~~):
This section contains the rules for preparing environmental impact statements. The city adopts the following sections by reference, as supplemented by this section:

- WAC 197-11-400 Purpose of EIS
- 402 General requirements
- 405 EIS types
- 406 EIS timing
- 408 Scoping
- 410 Expanded scoping (optional)
- 420 EIS preparation
- 425 Style and size
- 430 Format
- 435 Cover letter or memo
- 440 EIS Contents
- 442 Contents of EIS on nonproject proposals
- 443 EIS contents when prior nonproject EIS
- 444 Elements of the environment
- 448 Relationship of EIS to other considerations
- 450 Cost-benefit analysis
- 455 Issuance of DEIS
- 460 Issuance of FEIS

(1988 Code § 16.04.140; amd. 2007 Code)

B. EIS Preparation; Additional Considerations (~~Washington Administrative Code 173-806-120~~):

1. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the city administrator. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Washington administrative code chapter 197-11.

2. The DEIS and FEIS or draft and final SEIS shall be prepared by city staff, the applicant, or by a consultant selected by the city or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant of the city's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

3. The city may require an applicant to provide information the city does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. (1988 Code § 16.04.150)

5-1-4: COMMENTING:

A. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-128~~): This section contains rules for consulting, commenting and responding on all environmental documents under SEPA, including the rules for public notice and hearings. The city adopts the following sections by reference, as supplemented in this ~~section~~ chapter:

- WAC 197-11-500 Purpose of this part
- 502 Inviting comment
- 504 Availability and cost of environmental documents
- 508 SEPA register
- 535 Public hearings and meetings
- 545 Effect of no comment
- 550 Specificity of comments
- 560 FEIS response to comments
- 570 Consulted agency costs to assist lead agency

(1988 Code § 16.04.160)

B. Public Notice (~~Washington Administrative Code 173-806-130~~): Whenever the city issues a DNS under Washington administrative code 197-11-340(2) or a DS under Washington administrative code 197-11-360(3), the city shall give public notice as follows:

1. If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.

2. If ~~no~~ public notice is required for the permit or approval, the city shall give notice of the DNS or DS by:

- a. Posting the property, for site specific proposals;
- b. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located.

3. Whenever the city issues a DS under Washington administrative code 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in Washington administrative code 197-11-620, notice of the availability of those documents shall be given by:

- a. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
- b. Posting the property, for site specific proposals;
- c. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located.

4. Whenever possible, the city shall integrate the public notice required under this subsection with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal.

5. The city may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (1988 Code § 16.04.170)

6. Documents which are required to be sent to the department of ecology under the chapter 197-11 WAC will be published in the SEPA register, which will also constitute a form of public notice. However, publication in the SEPA register shall not, in itself, meet compliance with this section.

C. Consulted Agency Responsibilities ~~(Washington Administrative Code 173-806-140):~~

1. The city administrator shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
2. The city administrator shall be responsible for the city's compliance with Washington administrative code 197-11-550 whenever the city is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city. (1988 Code § 16.04.180)

5-1-5: EXISTING ENVIRONMENTAL DOCUMENT USE:

A. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-150~~):

This section contains rules for using and supplementing existing environmental documents prepared under SEPA or national environmental policy act (NEPA) for the city's own environmental compliance. The city adopts the following sections by reference:

WAC 197-11-600 When to use existing environmental documents

-610 Use of NEPA documents

-620 Supplemental environmental impact statement--procedures

-625 Addenda--procedures

-630 Adoption--procedures

-635 Incorporation by reference--procedures

-640 Combining documents

(1988 Code § 16.04.190)

5-1-6: SEPA AND AGENCY DECISIONS:

A. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-155~~):

This section contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This subsection also contains procedures for appealing SEPA determinations to agencies or the courts. The city adopts the following sections by reference:

WAC 197-11-650 Purpose of this part

-655 Implementation

-660 Substantive authority and mitigation

-680 Appeals

(1988 Code § 16.04.200)

B. Substantive Authority (~~Washington Administrative Code 173-806-160~~):

1. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city.

2. The city may attach conditions to a permit or approval for a proposal so long as:

- a. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and
- b. Such conditions are in writing; and
- c. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
- d. The city has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
- e. Such conditions are based on one or more policies in subsection B4 of this section and cited in the license or other decision document.

3. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:

- a. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in an FEIS or final SEIS prepared pursuant to this chapter; and
- b. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
- c. The denial is based on one or more policies identified in subsection B4 of this section and identified in writing in the decision document.

4. The city designates and adopts by reference the following policies as the basis for the city exercise of authority pursuant to this subsection:

a. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural and natural aspects of our national heritage;

(5) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(6) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(7) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

b. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. (1988 Code § 16.04.210)

C. Appeal To Local Legislative Body: No appeal to the local legislative body shall be allowed. (1988 Code § 16.04.220)

5-1-7: DEFINITIONS:

A. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-175~~): This section contains uniform usage and definitions of terms under SEPA. The city adopts the following sections by reference, as supplemented by Washington administrative code 173-806-040^[u2]:

WAC 197-11-700 Definitions

-702 Act

-704 Action

-706 Addendum

-708 Adoption

-710 Affected tribe

-712 Affecting

-714 Agency

-716 Applicant

-718 Built environment

-720 Categorical exemption

721 Closed record appeal
-722 Consolidated appeal
-724 Consulted agency
-726 Cost-benefit analysis
-728 County/city
-730 Decision maker
-732 Department
-734 Determination of nonsignificance (DNS)
-736 Determination of significance (DS)
-738 EIS
-740 Environment
-742 Environmental checklist
-744 Environmental document
-746 Environmental review
-750 Expanded scoping
-752 Impacts
-754 Incorporation by reference
-756 Lands covered by water
-758 Lead agency
-760 License
-762 Local agency
-764 Major action
-766 Mitigated DNS
-768 Mitigation
-770 Natural environment

-772 NEPA

- 774 Nonproject
- 776 Phased review
- 778 Preparation
- 780 Private project
- 782 Probable
- 784 Proposal
- 786 Reasonable alternative
- 788 Responsible official
- 790 SEPA
- 792 Scope
- 793 Scoping
- 794 Significant
- 796 State agency
- 797 Threshold determination
- 799 Underlying governmental action

(1988 Code § 16.04.230; amd. 2007 Code)

~~5-1-8: CATEGORICAL EXEMPTIONS:~~

~~A. Purpose Of Section; Adoption By Reference (Washington Administrative Code 173-806-180):
The city adopts by reference the following rules for categorical exemptions, as supplemented in this chapter, including Washington administrative code 173-806-070 (flexible thresholds), 173-806-080 (use of exemptions), and 173-806-190 (critical areas):~~

~~WAC 197-11-800—Categorical exemptions~~

~~-880—Emergencies~~

~~-890—Petitioning DOE to change exemptions~~

~~(1988 Code § 16.04.240; amd. 2007 Code)~~

5-1-89: AGENCY COMPLIANCE:

A. Purpose Of Section; Adoption By Reference (~~Washington Administrative Code 173-806-185~~):

This subsection contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The city adopts the following sections by reference, as supplemented by Washington administrative code 173-806-045 through 173-806-043 and this section:

- WAC 197-11-900 Purpose of this part
- 902 Agency SEPA policies
- 916 Application to ongoing actions
- 920 Agencies with environmental expertise
- 922 Lead agency rules
- 924 Determining the lead agency
- 926 Lead agency for governmental proposals
- 928 Lead agency for public and private proposals
- 930 Lead agency for private projects with one agency with jurisdiction
- 932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
- 934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
- 936 Lead agency for private projects requiring licenses from more than one state agency
- 938 Lead agencies for specific proposals
- 940 Transfer of lead agency status to a state agency
- 942 Agreements of lead agency status
- 944 Agreements on division of lead agency duties
- 946 DOE resolution of lead agency disputes
- 948 Assumption of lead agency status

(1988 Code § 16.04.250)

B. Fees (~~Washington Administrative Code 173-806-200~~): The city shall require the following fees for its activities in accordance with the provisions of this chapter: (1988 Code § 16.04.260)

1. Threshold Determination: For every environmental checklist, the city shall collect a fee of one hundred dollars (\$100.00) from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fee. (1988 Code § 16.04.260; amd. 2007 Code)

2. Environmental Impact Statement:

a. When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred by the city in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

b. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some person or entity other than the city and may bill such costs and expenses directly to the applicant. The city may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the city and applicant after a call for proposals.

c. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subdivision B2a or B2b of this section which remain after incurred costs are paid.

3. The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

4. The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Revised Code of Washington chapter 42.17. (1988 Code § 16.04.260)

~~C. Severability (Washington Administrative Code 173-806-220): If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected. (1988 Code § 16.04.270)~~_[u3]

5-1-~~910~~: FORMS:

A. Adoption By Reference (Washington Administrative Code 173-806-230): The city adopts the following forms and sections by reference:

- WAC 197-11-960 Environmental checklist
- 965 Adoption notice
- 970 Determination of nonsignificance (DNS)
- 980 Determination of significance and scoping notice (DS)
- 985 Notice of assumption of lead agency status
- 990 Notice of action

(1988 Code § 16.04.280)

5-1-10: SEVERABILITY

A. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected. (1988 Code § 16.04.270)

TAB - B

LONG BEACH CITY COUNCIL MEETING

FEBRUARY 2, 2015

CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL

Mayor Andrew called the meeting to order at 7:00 p.m. and asked for the Pledge of Allegiance and roll call.

ROLL CALL

Gene Miles, City Administrator, called roll with Mayor Andrew, C. Linhart, C. Hanson, C. Perez, C. Murry, and C. Phillips present.

CONSENT AGENDA

Minutes, January 20, 2014 Regular City Council meeting

Payment Approval List for Warrant Registers 55012 - 55050 & 77407 - 77463 for \$183,838.22

C. Linhart made the motion to approve the consent agenda with C. Phillips seconding the motion. 5 Ayes 0 Nays 0 Abstain, motion passed.

BUSINESS

AB 15-09 Emergency Measure Ord. No. 906, Low Income Housing Densities

Gayle Borchard, Community Development Director, presented the agenda bill. Agenda item is in regards to allowing low-income residential densities up to the "carrying capacity" of a property. Adopting Ord. 906 will allow the JPCHA project at 10th/11th St NE Oregon and Oregon N to proceed on schedule. **C. Linhart made the motion to approve the agenda bill with C. Phillips seconding the motion. 5 Ayes 0 Nays 0 Abstain, motion passed.**

AB 15-10 Case No. SUP Request by Andrew Walls

Gayle Borchard, Community Development Director, presented the agenda bill. Agenda item is in regards to a request by Andrew Walls for a special use permit to use a 10' X 20' building on skids for a temporary office at his place of business. Approval of SUP 2015-01 will allow short-term use of the structure for a maximum of six months. **C. Perez made the motion to pass the agenda bill with C. Hanson seconding the motion. 3 Ayes 2 Nays 0 Abstain, motion passed.**

AB 15-11 Interfund Loan Update

David Glasson, Finance Director, presented the agenda bill. Agenda item is in regards the State Auditor's recommendation clean up paperwork related to interfund loans. Action will combine funds of two loans and formalize interest rates of the three others. Adoption of Resolutions 2015-04, 2015-05, 2015-06, and

2015-7 will allow this process. **C. Linhart made the motion to pass the agenda bill with C. Phillips seconding the motion. 5 Ayes 0 Nays 0 Abstain, motion passed.**

AB 15-12 Email Hosing Agreement with Vision Municipal Solutions

David Glasson, Finance Director, presented the agenda bill. Agenda item is in regards to an agreement with Vision as a host for email of city staff, mayor and council. **C. Phillips made the motion to pass the agenda bill with C. Perez seconding the motion. 5 Ayes 0 Nays 0 Abstain, motion passed.**

ORAL REPORTS

C. Linhart, C. Hanson, C. Perez, C. Phillips, Mayor Andrew, Gene Miles, City Administrator, David Glasson, Finance Director and LBVFD Chief, and Ragan Myers, Tourism and Events Coordinator, presented reports.

CORRESPONDENCE AND WRITTEN REPORTS

Correspondence – Thank you not to the Mayor
Correspondence – Sales and Lodging Tax
Correspondence – Draft Staff Report on Senior Low Income Housing
Correspondence – Information on the Proposed WPV Use Rules on the Beach
Business License – Rosemont Terrace; 1310 Pacific Ave N
Business License – Suite Beach; 201 Ocean Beach Blvd #17
Business License - Hyundai Lease Titling Trust; Irvine, CA
Business License – Merry’s Notary on Wheels; Seaview
Business License – Akari Properties LLC; 203 Bolstad

PUBLIC COMMENT

No public comment.

ADJOURNMENT

Mayor Andrew adjourned the meeting. The meeting was adjourned at 7:23 p.m.

Mayor

ATTEST:

City Clerk



Warrant Register

Check Periods: 2015 - February - First

I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF LONG BEACH, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

Council Member Council Member Council Member Finance Director

Number	Name	Print Date	Clearing Date	Amount
55051	Andrew, Robert E.	2/5/2015		\$395.45
55052	Bell, Helen S	2/5/2015		\$1,225.57
55053	Binion, Jacob	2/5/2015		\$1,826.38
55054	Bonney, Matthew T	2/5/2015		\$1,410.90
55055	Booi, Kristopher A	2/5/2015		\$1,292.27
55056	Borchard, Gayle	2/5/2015		\$1,635.21
55057	Cutting, Jeffrey G.	2/5/2015		\$2,295.10
55058	Daulton, Alan T	2/5/2015		\$94.02
55059	Ellyson, Susan R	2/5/2015		\$1,059.72
55060	Fitzgerald, Rick E.	2/5/2015		\$1,413.55
55061	Gilbertson, Bradley K	2/5/2015		\$1,426.93
55062	Glasson, David R.	2/5/2015		\$2,593.64
55063	Goulter, John R.	2/5/2015		\$1,530.07
55064	Gray, Karen	2/5/2015		\$679.88
55065	Hanson, Natalie	2/5/2015		\$262.81
55066	Huff, Timothy M.	2/5/2015		\$1,602.81
55067	Kaino, Kris	2/5/2015		\$1,015.75
55068	Kirby, Gary E	2/5/2015		\$898.11
55069	Kitzman, Michael	2/5/2015		\$2,143.03
55070	Linhart, Steven P	2/5/2015		\$266.95
55071	Luethe, Paul J	2/5/2015		\$1,419.91
55072	Meling, Casey K	2/5/2015		\$1,952.14
55073	Miles, Eugene S	2/5/2015		\$2,588.20
55074	Mortenson, Tim	2/5/2015		\$2,247.14
55075	Murry, Del R	2/5/2015		\$266.95
55076	Myers, Ragan S.	2/5/2015		\$1,460.08
55077	Nawn, Rodney J.	2/5/2015		\$1,910.63
55078	Ostgaard, Loretta G	2/5/2015		\$1,417.24
55079	Padgett, Timothy J	2/5/2015		\$1,402.48

Number	Name	Print Date	Clearing Date	Amount
55080	Parker, Michael T	2/5/2015		\$1,879.01
55081	Perez, Arthur Mark	2/5/2015		\$185.75
55082	Phillips, Gerald S	2/5/2015		\$266.95
55083	Quittner, Jonathan H	2/5/2015		\$957.47
55084	Russum, Richard	2/5/2015		\$1,563.38
55085	Warner, Ralph D.	2/5/2015		\$2,028.83
55086	Wright, Flint R	2/5/2015		\$2,424.99
55087	Zuern, Donald D.	2/5/2015		\$2,119.62
55088	AFLAC	2/9/2015		\$209.88
55089	Association of WA Cities	2/9/2015		\$23,488.98
55090	City of Long Beach - Fica	2/9/2015		\$11,033.26
55091	City of Long Beach - FWH	2/9/2015		\$8,829.16
55092	Council Gift Fund	2/9/2015		\$60.00
55093	Dept of Labor & Industries	2/9/2015		\$2,386.62
55094	Dept of Retirement Systems	2/9/2015		\$9,530.61
55095	Dept of Retirement Systems Def Comp	2/9/2015		\$1,225.00
55096	Massmutual Retirement Services	2/9/2015		\$375.00
55097	Teamsters Local #58	2/9/2015		\$182.00
77464	STAPLES ADVANTAGE	1/30/2015		\$646.23
77465	Ellyson, Sue	2/3/2015		\$25.79
77466	Haskin, Katie	2/3/2015		\$269.30
77467	KING COUNTY FINANCE	2/3/2015		\$200.00
77468	Kitzman, Mike	2/3/2015		\$173.00
77469	Meling, Casey	2/3/2015		\$174.00
77470	Millbrooke, Tom or Debbie	2/3/2015		\$8.03
77471	Pacific County Auditor	2/3/2015		\$32.00
77472	Pitney Bowes Global Financial Services LLC	2/3/2015		\$681.63
77473	Purchase Power	2/3/2015		\$1,500.00
77474	Redmond Inn	2/3/2015		Void
77475	Russum, Rick	2/3/2015		\$173.00
77476	Verizon Wireless	2/3/2015		\$137.31
77478	Luethe, Paul	2/10/2015		\$102.00
77479	Caldwell, Tye	2/11/2015		\$12.43
77480	Williams, David	2/11/2015		\$149.19
77481	Lopez, Daniel	2/11/2015		\$74.59
77482	Bardonski, Cory	2/11/2015		\$62.16
77483	Oman, Steve	2/11/2015		\$12.43
77484	Nagy, Brandon	2/11/2015		\$12.43
77485	Mortenson, Jared	2/11/2015		\$37.30
77486	Phillips, John	2/11/2015		\$12.43
77487	Hoover, Brandon	2/11/2015		\$12.43
77488	Aiken, James	2/11/2015		\$49.73
77489	Luce, Tasha	2/11/2015		\$24.86
77490	DMCJA	2/12/2015		\$187.00
77491	Iiwaco Wrestling Federation	2/12/2015		\$603.06
77492	Airgas USA LLC	2/13/2015		\$27.90

Number	Name	Print Date	Clearing Date	Amount
77493	AlSCO-American Linen Div.	2/13/2015		\$107.56
77494	Astoria Janitor & Paper Supply	2/13/2015		\$644.17
77495	Backflow Management Inc	2/13/2015		\$1,503.75
77496	Bailey's Saw Shop	2/13/2015		\$131.82
77497	Bank of The Pacific	2/13/2015		\$485.10
77498	Bio Management Northwest	2/13/2015		\$515.00
77499	Blue Line Training LLC	2/13/2015		\$149.00
77500	BSK Associates	2/13/2015		\$215.00
77501	Campiche Studios	2/13/2015		\$70.07
77502	Cashmere Valley Bank	2/13/2015		\$4,854.56
77503	Chinook Observer	2/13/2015		\$79.65
77504	Clatsop Power Equipment	2/13/2015		\$890.98
77505	Coast Rehabilitation Services	2/13/2015		\$292.00
77506	Coastal Holdings, LLC	2/13/2015		\$760.00
77507	Code 4 Public Safety Education Assoc, Inc	2/13/2015		\$99.00
77508	Columbia Steel Supply	2/13/2015		\$282.00
77509	Dennis Company	2/13/2015		\$707.91
77510	Department of Health	2/13/2015		\$2,783.30
77511	Dept of Ecology	2/13/2015		\$14,974.09
77512	Dooley Enterprises Inc.	2/13/2015		\$919.50
77513	Eaton Corporation	2/13/2015		\$155.37
77514	Englund Marine Supply	2/13/2015		\$208.19
77515	Evergreen Septic Service	2/13/2015		\$252.00
77516	Ford Electric	2/13/2015		\$1,686.41
77517	Galls, LLC	2/13/2015		\$189.89
77518	GE Analytical Instruments, Inc	2/13/2015		\$6,070.00
77519	Grafix Shoppe	2/13/2015		\$324.54
77520	GRAINGER	2/13/2015		\$1,020.49
77521	HARRINGTON INDUSTRIAL PLASTICS	2/13/2015		\$302.79
77522	International Code Council, Inc.	2/13/2015		\$125.00
77523	Kulbel, Jim	2/13/2015		\$1,355.21
77524	L.N. Curtis & Sons	2/13/2015		\$348.74
77525	Lakeside Industries, Inc.	2/13/2015		\$324.17
77526	LEEDWAY, LLC	2/13/2015		\$1,015.31
77527	Les Schwab -Mccall Tire Center	2/13/2015		\$817.40
77528	Loyalty Days	2/13/2015		\$190.00
77529	Measure-Tech, Inc.	2/13/2015		\$2,261.71
77530	Naselle Rock & Asphalt	2/13/2015		\$4,640.00
77531	North Coast Truck Parts	2/13/2015		\$285.00
77532	Ocean Beach Hospital	2/13/2015		\$264.05
77533	Oman & Son Builders	2/13/2015		\$2,106.65
77534	One Call Concepts, Inc.	2/13/2015		\$35.64
77535	Pacific Art & Office Supply	2/13/2015		\$148.61
77536	Pacific Coast Tools - MAC Tools	2/13/2015		\$396.68
77537	Pacific County Department of Public Works	2/13/2015		\$60.00
77538	Pacific County Sheriff's	2/13/2015		\$425.00

Number	Name	Print Date	Clearing Date	Amount
77539	Peninsula Sanitation	2/13/2015		\$1,400.84
77540	Peninsula Visitors Bureau	2/13/2015		\$15,450.01
77541	Penoyar, William	2/13/2015		\$1,000.00
77542	Performance Power Concepts	2/13/2015		\$859.58
77543	Photo'neil	2/13/2015		\$574.71
77544	Radio Shack	2/13/2015		\$23.71
77545	Rank's Cabinets, Inc	2/13/2015		\$1,107.36
77546	Recall Secure Destruction Services	2/13/2015		\$261.00
77547	Sea Western Fire	2/13/2015		\$1,128.00
77548	Sid's Iga	2/13/2015		\$6.30
77549	Sirennet.com	2/13/2015		\$120.48
77550	STAPLES ADVANTAGE	2/13/2015		\$155.02
77551	SUNSET AUTO PARTS, INC	2/13/2015		\$961.19
77552	Tacoma Community College	2/13/2015		\$134.34
77553	Taft Plumbing	2/13/2015		\$80.12
77554	TMG Services, Inc.	2/13/2015		\$856.22
77555	Usa Blue Book	2/13/2015		\$586.54
77556	Visa	2/13/2015		\$2,097.46
77557	Wadsworth Electric	2/13/2015		\$767.54
77558	Washington State Parks	2/13/2015		\$25.00
77559	Wilcox & Flegel	2/13/2015		\$1,307.41
77560	Wilcox & Flegel Oil Co.	2/13/2015		\$1,361.77
77561	Wirkkala Construction	2/13/2015		\$556.25
77562	World Kite Museum	2/13/2015		\$208.34
	Total		Check	\$200,382.16
	Grand Total			\$200,382.16

TAB - C



**CITY COUNCIL
AGENDA BILL
AB 15-13**

Meeting Date: February 17, 2015

AGENDA ITEM INFORMATION

SUBJECT: VB Contract	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	GM
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	
	Finance Director	DG
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
	Water/Wastewater Supervisor	
COST: \$190,400 Budgeted for 2015	Other:	
SUMMARY STATEMENT: This is basically the same as the contract we agreed upon last year, updated to include 2015 budgeted items.		
RECOMMENDED ACTION: Approve and authorize the Mayor to sign		

TOURISM SERVICE CONTRACT

Lodging Tax Contract: Long Beach Peninsula Visitors Bureau

THIS AGREEMENT is made by and between the Long Beach Peninsula Visitors Bureau, P.O. Box 562 Seaview, WA 98644 (“the ORGANIZATION”), and the City of Long Beach (“the CITY”), a political subdivision and municipal corporation of the state of Washington.

WHEREAS, Chapter 67.28 RCW provides authority for legislative bodies of municipalities to impose excise taxes on the sale of or charge made for the furnishing of lodging that is subject to tax under Chapter 82.08 RCW; and

WHEREAS, RCW 67.28.1815 in part states that: “All revenue from taxes imposed under said Chapter shall be credited to a special fund in the treasury of the municipality imposing such tax and used solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities...” and

WHEREAS, the CITY Lodging Tax revenues have been credited to the Tourism Development Fund (No. 103) in the treasury of the CITY; and

WHEREAS, the ORGANIZATION applied through the CITY Lodging Tax Marketing Committee (“the COMMITTEE”) for financial assistance from CITY Lodging Tax proceeds (“the Proposal”); and

WHEREAS, the COMMITTEE facilitated these efforts by (a) coordinating the funding availability, (b) evaluating submitted application packets, and (c) advancing the financing award recommendations to the CITY, including the Proposal from the ORGANIZATION; and

WHEREAS, the CITY has determined that the activity herein described promotes the general welfare, health and safety of the citizens of the CITY, and is in the best interests of the CITY in regard to the promotion of tourism, the CITY intends to disperse CITY Lodging Tax proceeds to the ORGANIZATION to assist with its Proposal, and hereby enters into this Agreement; now, therefore,

WITNESSETH, that in consideration of the premises and mutual benefits and covenants herein contained, it is agreed by and between the parties hereto as follows:

1. **FUNDING**: One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) have been pledged from the CITY Tourism Development Fund No. 103 in fiscal year 2015 to assist with **Tourism Promotion** within Pacific County. Said amount shall constitute the maximum reimbursement the ORGANIZATION is eligible to receive from the CITY under this Agreement.

2. **USE OF FUNDS**: The ORGANIZATION shall use these CITY funds for the express purpose of **Tourism Promotion** of Long Beach and Pacific County. **Tourism Promotion** is defined as activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists; developing strategies to expand tourism; providing information and/or services to inform and/or recruit prospective tourists; and funding marketing of special events and festivals designed to attract tourists. The specific services to be provided by the ORGANIZATION to the CITY under this Contract are described in Attachment A: Scope of Work.

3. **PAYMENT PROVISIONS:** Once this AGREEMENT is executed, the ORGANIZATION may submit claims vouchers to the CITY requesting reimbursement for eligible expenses and/or for eligible services as listed in Section 2. Use of Funds and Attachment A: Scope of Work up to the amount as specified in Section 1. Funding.

Each reimbursement claims voucher shall include the following certificate of authenticity with the dated signature of an authorized representative of the ORGANIZATION: ***"I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished and the services rendered as described herein, and that this claim is a just, due and unpaid obligation against the City of Long Beach Tourism Development Fund No. 103."***

The ORGANIZATION shall provide the CITY with a written "progress/status brief" regarding the Proposal with each reimbursement claims voucher.

Within twenty (20) days of receiving any such reimbursement claims voucher, the CITY shall remit to the ORGANIZATION a warrant for the approved reimbursement amount.

The final claims voucher shall be submitted to the CITY by the ORGANIZATION no later than Wednesday, January 2, 2016.

4. **EVALUATION AND MONITORING:** The ORGANIZATION agrees to maintain books, records and other documents and evidence, and to use accounting procedures and practices that sufficiently and properly support the complete performance of and the full compliance with this Agreement. The ORGANIZATION will retain these supporting books, records, documents and other materials for at least three (3) calendar years following the year in which the Agreement expires.

The CITY and/or the State Auditor and any of their representatives shall have full and complete access to these books, records and other documents and evidence retained by the ORGANIZATION respecting all matters covered in and under this Agreement, and shall have the right to examine such during normal business hours as often as the CITY and/or the State Auditor may deem necessary. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, and records of matters covered by this Agreement. These access and examination rights shall last for three calendar years following the year in which the Agreement expires.

The CITY intends without guarantee for its agents to use reasonable security procedures and protections to assure that related records and documents provided by the ORGANIZATION are not erroneously disclosed to third parties. The CITY will, however, disclose or make this material available to those authorized by/in the above paragraph or permitted under the provisions of Chapter 42.56 RCW without notice to the ORGANIZATION.

The ORGANIZATION shall cooperate with and freely participate in any other monitoring or evaluation activities pertinent to this Agreement that the CITY finds needing to be conducted.

5. **RECAPTURE PROVISION:** In the event the ORGANIZATION fails to expend these funds in accordance with state law and/or the provisions of this Agreement, the CITY reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for a period of two (2) years following release of any report from an audit conducted by the CITY and/or the State Auditor's Office under the Section 4 (EVALUATION AND MONITORING) provisions or the 3-year records retention period required under Section 4 (EVALUATION AND MONITORING), whichever occurs later. Repayment by the ORGANIZATION of any funds recaptured under this provision shall occur within twenty (20) days of any demand. In the event the CITY is required to

institute legal proceedings to enforce this recapture provision, the CITY shall be entitled to its costs thereof, including reasonable attorney's fees.

6. **NONDISCRIMINATION**: The ORGANIZATION shall comply with all federal and state nondiscrimination laws, including, but not limited to chapter 49.60 RCW – Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq. – the Americans with Disabilities Act (ADA). In the event the ORGANIZATION fails or refuses to comply with any nondiscrimination law, regulation, or policy, this Agreement may be rescinded, canceled or terminated in whole or in part, and the ORGANIZATION may be declared by the CITY ineligible for further CITY Tourism Development Funds. The ORGANIZATION shall be given a reasonable time in which to cure any such noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedures set forth herein.

7. **EMPLOYMENT RELATIONSHIPS**: The ORGANIZATION, its employees, volunteers or agents performing under this Agreement are not deemed to be employees of the CITY, nor volunteers or agents of the CITY in any manner whatsoever. No officer, employee, volunteer or agent of the ORGANIZATION will hold themselves out as, or claim to be, an officer, employee, volunteer or agent of the CITY by reason hereof, nor will they make any claim, demand or application to or for any right or privilege applicable to an officer, employee volunteer or agent of the CITY.

The parties agree that the CITY will not be responsible for the payment of any industrial insurance premiums or related claims or other benefits that may arise during the performance of services under this Agreement for any ORGANIZATION employee or volunteer, or for any consultant's, contractor's or subcontractor's employee(s) or agent(s) that has been retained by the ORGANIZATION.

8. **HOLD HARMLESS**: In accepting this Agreement, the ORGANIZATION, including its successors and assigns, does hereby covenant and agree to indemnify and protect and save harmless the CITY and its officers and employees from all claims, actions, or damages of every kind and description which may accrue to or be suffered by any person, partnership, corporation, or other entity of any kind that arise in whole or in part from intentional tort(s), or negligent act(s) or omission(s), or strict liability of the ORGANIZATION or its employees, agents, successors, or assigns. If the above sentence applies and any suit or action is brought against the CITY, its officers, its employees, or any combination thereof, the ORGANIZATION, including its successors or assigns, shall defend the suit or action at his or her or their sole cost and expense and shall fully satisfy any judgment that is rendered against the CITY, its officers, its employees, or any combination thereof.

9. **ENTIRE AGREEMENT/MODIFICATIONS**: This Agreement represents all the terms and conditions agreed to by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any parties hereto. The CITY and the ORGANIZATION may, from time to time, request changes in services being performed with these funds. Any such changes that are mutually agreed upon shall be incorporated herein by written amendment to this Agreement. For example, and without limitation, an amendment to this Agreement must be approved in writing by the CITY prior to the ORGANIZATION expending funds for the items covered within that amendment. Costs incurred in contravention of this Paragraph are the sole responsibility of the ORGANIZATION.

10. **AGREEMENT PERIOD**: The terms of this Agreement and the performance of the parties hereto shall commence, or be deemed to have commenced, the 1st day of January 2015 and will continue through the 31st day of December 2015, both dates inclusive, unless sooner terminated or extended as provided for herein.

11. **TERMINATION OF AGREEMENT:** If, through any cause, the ORGANIZATION shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the ORGANIZATION shall violate any of its covenants, agreements or stipulations, the CITY shall thereupon have the right to terminate this Agreement and withhold the remaining allocation if the default or violation is not corrected within ten (10) days of the CITY submitting written notice to the ORGANIZATION describing the default or violation.

Notwithstanding any contrary provisions of this Agreement, either party may terminate this Agreement by providing written notice of such termination and specifying the effective date thereof to the other party at least twenty (20) days prior to the revised termination date. Payment for all Proposal-related expenses incurred by the ORGANIZATION and not reimbursed or otherwise paid for by the CITY prior to the effective date of such revised termination shall be as the CITY reasonably determines.

The CITY may unilaterally terminate all or part of this Agreement, or reduce the Scope of Work and/or Funding without regard for "eligible" expenses being incurred and awaiting reimbursement if the Long Beach Tourism Development funds are reduced as a result of a reduction or loss of the lodging sales and use taxing authority or a substantial reduction in taxable jurisdiction or activity.

12. **SPECIAL PROVISION:** The failure of the CITY to insist upon the strict performance of any provision of this Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

13. **SEVERABILITY:** In the event any provision or any portion thereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, then said provision(s) or portion(s) thereof shall be deemed severed and the remainder of this Agreement shall not be affected and shall remain in full force and effect. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible.

14. **DISPUTE RESOLUTION:** Except as otherwise provided in this Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties shall select a dispute resolution team to resolve the dispute by majority vote. The team shall consist of (a) a representative appointed by the CITY, (b) a representative appointed by the ORGANIZATION, and (c) a third party mutually agreed upon by the two (2) appointed representatives. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

15. **GOVERNING LAW AND VENUE:** This Agreement shall be construed and enforced in accordance with, and its validity and performance governed by, the laws of the state of Washington. The Superior Court of and for Pacific County, Washington shall be the venue for any suit between the parties arising out of this Agreement.

16. **NOTIFICATION:** Should the need arise during the term of this Agreement for either party to notify the other of a change in address or otherwise, the following contacts shall be used:

For the CITY:	City Administrator P.O. Box 310 Long Beach, WA 98631-0310 Telephone: 360-642-4421 Fax: 360-642-8841
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For the ORGANIZATION:	Executive Director
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ATTACHMENT A: SCOPE OF WORK

2015 Promotion of the Long Beach and Pacific County area and/or Events/Attractions in Pacific County to Potential Tourists:

<u>Activity:</u>	<u>Number of Unduplicated Contacts/Actions</u>	<u>Budget</u>
Print Ads	2015 Washington State Travel Planner	\$ 12,000
Print collateral	2015 Beach Vacation Planner (60,000 Produced/Printed)	\$ 12,000
WebSite	2015 Annual Maintenance and Development	\$ 20,000
Public Relations	2015 Public Relations	\$ 50,000
Marketing	Marketing projects and activities	\$ 20,000
Research & Dev.	Feasibility Study of Sports Venues	\$ 5,000
In-Person Contacts	17,000 Contacts	\$ 30,000
Phone Contacts	7,000 Contacts	\$ 11,400
Printed Materials	150,000 pieces distribution	\$ 30,000

Grand Total: \$190,400

TAB - D



**CITY COUNCIL
AGENDA BILL
AB 15-14**

Meeting Date: February 17, 2015

AGENDA ITEM INFORMATION

SUBJECT: Ordinance No. 907 for Case No VAC 2015-01 – Partial Vacation of 10th and 11th Streets NE and Oregon Avenue N	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	GB
	Finance Director	
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
COST: \$190,400 Budgeted for 2015	Water/Wastewater Supervisor	
	Other:	
<p>SUMMARY STATEMENT: Council Passed Resolution No. 2015-03 to set today's date to conduct a public hearing on the matter of partial ROW vacations on 10th and 11th Streets Northeast and Oregon Avenue North. The vacations were requested by Petitioner Joint Pacific County Housing Authority to facilitate a low-income senior housing project.</p> <p>Ordinance, staff report, and supporting materials attached</p>		
<p>RECOMMENDED ACTION: Conduct public hearing. Barring unforeseen circumstances, conditionally approve Ordinance No. 907, but do not transfer property until funding is secured for the project requiring the vacations.</p>		

ORDINANCE No. 907

AN ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON, PROVIDING FOR THE VACATION OF PORTIONS OF THE RIGHT-OF-WAY OF 10th STREET and 11th STREET NORTHEAST AND OREGON AVENUE NORTH, AND REPEALING ANY ORDINANCES IN CONFLICT

WHEREAS, RCW 35.79 allows for the vacation of city streets; and,

WHEREAS, the City of Long Beach has been requested to vacate three sections of rights-of-way; and,

WHEREAS, the City of Long Beach Unified Development Ordinance provides for a process by which owners of any real property abutting upon any street or alley may petition the City Council to make vacation of the right-of-way; and,

WHEREAS, the City Council adopts the following Findings of Fact:

1. **Petition.** The City Council finds the petition comprises the following:
 - 1.1 A letter from petitioner JPCHA December 11, 2014 and subsequent and phone exchange on or about January 20, 2015.
 - 1.2 All other information contained in Case File No. VAC 2015-01.
2. **Procedures.** The Council finds the following procedures were followed:
 - 2.1 On December 11, 2014 petition was received by the City.
 - 2.2 On December 12, 2014 the City Administrator was notified.
 - 2.3 On December 17, 2014 a site visit was conducted with utility providers and City department heads. The Community Development Director consulted with City Department heads, Public Utility District No. 2 of Pacific County, and CenturyTel regarding this ROW.
 - 2.4 On January 20, 2015, the City Council approved Resolution 2015-03 setting the time and place for a public hearing on the matter.
 - 2.5 On or soon after January 21, 2015 the City posted notice of the hearing at the subject site, the Long Beach post office, the Long Beach police station, and Long Beach City Hall. The City also requested the Chinook Observer publish the notice in its February 4 and 11, 2015, issues. The notice includes a statement of the proposal, a description of the land proposed to be vacated, as well as a map. The notice also includes instruction on how to submit comments on the proposal.
 - 2.6 On February 17, 2015, the Long Beach City Council opened and conducted a public hearing at or soon after 7 PM to take public comment on this matter.

3. **Proposal.** The City Council finds the following regarding the proposed street vacations:
 - 3.1 The petitioners request and City staff recommend that Council vacate the following, with transfer of title to the petitioners and all rights thereto:
 - Northern twenty (20') of the right-of-way of 10th Street Northeast, west one hundred feet (100') from the right-of-way of Oregon Avenue North, 2,000 SF;
 - Southern twenty (20') of the right-of-way of 11th Street Northeast, west one hundred feet (100') from the right-of-way of Oregon Avenue North, 2,000 SF;
 - Western ten feet (10') of the right-of-way of Oregon Avenue North between 10th Street Northeast and 11th Street Northeast (two hundred feet [200']), plus twenty feet to the north and to the south, 2,400 SF.
 - 3.2 The petitioners shall pay for all costs associated with this proposal, including and not limited to noticing fees and appraisal costs.
 - 3.3 The petitioner shall pay the City up to a maximum of 50% of the appraised value of the subject property.
4. **Property characteristics.** The City Council finds the following regarding the subject property:
 - 4.1 The subject property is the north and south 20' of the ROW of 10th and 11th Streets Northeast, respectively, from the western ROW of Oregon Avenue North westerly, plus the west 10' of the ROW of Oregon Avenue North between 10th Street Northeast and 11th Street Northeast (200'), plus 20' to the north and to the south. The subject property is Block 35, Lots 3-6, Tinker's Third Addition to Long Beach, Pacific County, Washington
 - 4.2 Characteristics of the property to which the vacated land would become part are as follows:
 - 4.2.1 Each of the four parcels is 50' X 100'.
 - 4.2.2 All lots are graded but undeveloped with any buildings; a fenced community garden is located on Lots 5 and 6.
 - 4.2.3 All four parcels are located within the B flood zone.
 - 4.2.4 All four parcels are essentially flat.
 - 4.2.5 All four parcels are served with City and utility services.
5. **Subject property land use and zoning.** The City Council finds the following regarding the land use and zoning of the property proposed for vacation:
 - 5.1 The subject property is located adjacent to the RC—Residential Commercial zone pursuant to the City's zoning regulations.
 - 5.2 The subject property is located adjacent to property designated RC—Residential Commercial on the future land use map of the Long Beach Comprehensive Plan.

5.3 The current land use of the subject property is undeveloped with buildings; a community garden is located on the northern two of the JPCHA's four parcels.

6. **Surrounding property land use and zoning.** The City Council finds the following regarding the land use and zoning of surrounding property:

AREA	LAND USE PLAN	ZONING	EXISTING CONDITIONS
NORTH	Residential Commercial	RC	RV Park
SOUTH	Residential Commercial	RC	Residence
EAST	Single Family	R1	Residence
WEST	Residential Commercial	RC	Closed auto repair shop and residence

7. **Services.** The City Council finds the following regarding services and utilities available to serve the proposed project:

- 7.1 Water is available from the City of Long Beach.
- 7.2 Sewer is available from the City of Long Beach.
- 7.3 Transportation: Existing 10th and 11th Streets Northeast and Oregon Avenue North are the primary ingress/egress for the subject property.
- 7.4 Public Education is provided by the Ocean Beach School District.
- 7.5 Electricity is available from Pacific County PUD No. 2.
- 7.6 Solid Waste is available from Peninsula Sanitation, and service is already provided on Boulevard North.
- 7.7 Police and Fire are provided by the City of Long Beach Police and City of Long Beach Fire Departments.
- 7.8 Medical and Emergency Facilities are provided by the City of Long Beach EMS, Medix Ambulance Service, and Ocean Beach Hospital District No. 3.

8. **City Staff and PUD Input.** The City Council finds the following regarding staff and PUD input:

- 8.1 City staff identified 20' along 10th and 11th Streets Northeast and 10' along Oregon Avenue North as the appropriate width of the property to be vacated.
- 8.2 City staff did not identify any conflicts regarding City services or utilities that cannot be rectified.
- 8.3 The PUD did not identify any conflicts regarding electrical services or facilities that could not be rectified.
- 8.4 Century Tel had not responded to the City's request for input regarding telephone facilities at the time of this writing; there are communication facilities on a pole that will be relocated as part of the senior housing project.

9. **City's Comprehensive Plan.** The City Council finds the proposed project complies with the following relevant portions of the City's Comprehensive Plan:
 - 9.1 Goal 1-2, Urban Form.
 - 9.2 Goals 2-2 and 2-3, Land Use.
 - 9.3 Goal 3-1, Housing.
 - 9.4 Goal 4-7, Environment.
 - 9.5 Goal 8-3, Utilities.

10. **City's Unified Development Regulations.** The City Council finds the proposal complies with the following relevant portions of the City's Unified Development regulations:
 - 10.1 11-6C-1(A), (C): Petition by owner.
 - 10.2 11-6C-2: Setting date for hearing.
 - 10.3 11-6C-3: Notice of hearing.
 - 10.4 11-6C-4: Hearing; ordinance of vacation.
 - 10.5 11-6C-6: Title to vacated street or alley.
 - 10.6 11-6C-7: Zoning of vacated street or alley.

WHEREAS, the City Council has adopted Resolution 2015-03 setting the time and place for the public hearing to determine the vacation request; and,

WHEREAS, the City has provided the required notification and publication of the public hearing; and,

WHEREAS, the subject portions of 10th and 11th Streets Northeast and Oregon Avenue North have been part of a dedicated City right-of-way for a period of twenty-five years or more; and,

WHEREAS, the abutting property owner will pay the City of Long Beach up to ½ the fair market value as provided for in RCW 35.79.030 and the City's Unified Development Code at 11-6C-5(C): Payment of Fair Market Value;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH DO ORDAIN AS FOLLOWS:

Section 1. Right-of-Way Vacated

The following right-of-way—the northerly twenty feet (20.0') of 10th Street Northeast from the western right-of-way of Oregon Avenue North westerly one hundred feet (100.0') plus the southerly twenty feet (20.0') of 11th Street Northeast from the western right-of-way of Oregon Avenue North westerly one hundred feet (100.0') plus the westerly ten feet (10.0') of Oregon Avenue North from the southern right-of-way of 11th Street Northeast to the northern right-of-way of 10th Street NE, plus 20 feet to the north and to the south—which will be joined with adjacent Lots 3 through 6, Block 35, Plat of Long Beach (Tinker's Third North Addition),

Pacific County, Washington is hereby vacated and ownership shall be transferred to the abutting property owner The Joint Pacific County Housing Authority. The area to be vacated comprises approximately 6,400 square feet. The legal description for the vacated right-of-way is:

1.1. 10th Street Northeast

FROM THE POINT OF BEGINNING; THE SOUTHEAST CORNER OF LOT NUMBER 4, BLOCK NUMBER 35 OF THE PLAT OF TINKER'S THIRD NORTH ADDITION TO LONG BEACH (BOOK D1 PAGE 25);

THENCE; WESTERLY PARALLELING THE EXISTING NORTHERN RIGHT-OF-WAY OF 10TH STREET NORTHEAST 100.0 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF LOT NUMBER 3, BLOCK NUMBER 35 OF THE PLAT OF TINKER'S THIRD NORTH ADDITION TO LONG BEACH;

THENCE, SOUTHERLY 20 FEET;

THENCE EASTERLY 100 FEET MORE OR LESS TO THE WESTERN RIGHT-OF-WAY OF OREGON AVENUE NORTH;

THENCE; NORTHERLY 20 FEET TO THE POINT OF BEGINNING.

1.2. 11th Street Northeast

FROM THE POINT OF BEGINNING; THE NORTHEAST CORNER OF LOT NUMBER 5, BLOCK NUMBER 35 OF THE PLAT OF TINKER'S THIRD NORTH ADDITION TO LONG BEACH (BOOK D1 PAGE 25);

THENCE; WESTERLY PARALLELING THE EXISTING SOUTHERN RIGHT-OF-WAY OF 11TH STREET NORTHEAST 100.0 FEET MORE OR LESS TO THE NORTHWEST CORNER OF LOT NUMBER 6, BLOCK NUMBER 35 OF THE PLAT OF TINKER'S THIRD NORTH ADDITION TO LONG BEACH;

THENCE, NORTHERLY 20 FEET;

THENCE EASTERLY 100 FEET MORE OR LESS TO THE WESTERN RIGHT-OF-WAY OF OREGON AVENUE NORTH;

THENCE; SOUTHERLY 20 FEET TO THE POINT OF BEGINNING.

1.3. Oregon Avenue North

FROM THE POINT OF BEGINNING; A POINT ON THE WESTERN RIGHT-OF-WAY OF OREGON AVENUE NORTH 20 FEET NORTHERLY OF THE NORTHEAST CORNER OF LOT NUMBER 5, BLOCK NUMBER 35 OF THE PLAT OF TINKER'S THIRD NORTH ADDITION TO LONG BEACH (BOOK D1 PAGE 25);

THENCE; EASTERLY 10 FEET;

THENCE; SOUTHERLY 240 FEET MORE OR LESS;

THENCE; WESTERLY 10 FEET MORE OR LESS TO A POINT ON THE EXISTING WESTERN RIGHT-OF-WAY OF OREGON AVENUE NORTH 20 FEET SOUTHERLY OF THE SOUTHEAST CORNER OF LOT NUMBER 4, BLOCK NUMBER 35 OF THE PLAT

OF TINKER'S THIRD NORTH ADDITION TO LONG BEACH;
THENCE NORTHERLY PARALLELING THE EXISTING WESTERN RIGHT-OF-WAY OF
OREGON AVENUE NORTH 240 FEET MORE OR LESS TO THE POINT OF BEGINNING.

Section 2. Severability Clause.

If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 3. Repeal of conflicting ordinances

All existing Ordinances are hereby repealed insofar as they may be in conflict with this ordinance.

Section 4. Effective Date.

This Ordinance shall be in full force and effect five days from and after its passage, approval, and publication in the manner required by law and shall be contingent upon the following conditions:

1. This vacation is conditional upon the JPCCHA or its developer receiving funding for and proceeding to construct a low income senior housing project on the receiving property, and right-of-way vacation and property transfer shall not occur until such funding is secured.
2. The petitioner shall pay for all costs associated with this partial ROW vacation.
3. If required by the Long Beach City Council, the petitioner shall cause to have a market-value appraisal made of the subject property at petitioner's expense, or alternatively agree to use the results of a recent valuation based on purchase of nearby property, unless this requirement waived by the City Council.
4. If required by the Long Beach City Council, the petitioner shall pay the City of Long Beach up to 50% of the market value of the subject property.
5. The petitioner shall grant any required easements for utilities currently located in the areas proposed to be vacated that will as a result of vacation be located on the petitioner's property. The petitioner shall prepare such easements, shall record them with Pacific County, shall provide the city a copy of all such easements, and shall provide a copy of any relevant easement to a non-city utility affected in this manner.

Passed this 17th day of February, 2015.

AYES

NAYS

ABSENT

ABSTENTIONS

Robert E. Andrew, Mayor

ATTEST:

David Glasson, City Clerk

City of Long Beach
Department of Community Development

STAFF REPORT

TO: Long Beach City Council
FROM: Gayle Borchard, Community Development Director
SUBJECT: Case No. VAC 2015-01
Vacation of Rights-of-Way—10th and 11th Streets Northeast and Oregon Avenue North
PETITIONER: Joint Pacific County Housing Authority (JPCHA)
SITE ADDRESS: Northern twenty (20') of the right-of-way of 10th Street Northeast, west one hundred feet (100') from the right-of-way of Oregon Avenue North; Southern twenty (20') of the right-of-way of 11th Street Northeast, west one hundred feet (100') from the right-of-way of Oregon Avenue North; Western ten feet (10') of the right-of-way of Oregon Avenue North between 10th Street Northeast and 11th Street Northeast (two hundred feet [200']), plus twenty feet to the north and to the south; Assessor's Parcel No. 73011035003, Block 35, Lots 3-6, Tinker's Third Addition to Long Beach, Pacific County, Washington
DATE: January 17, 2014

BACKGROUND

In order to allow development of a low income senior housing project, the petitioner, the Joint Pacific County Housing Authority (JPCHA), has requested the City of Long Beach to vacate the following partial rights-of-way (ROWS) [location map attached]:

- 20 feet by 100 feet from Oregon Avenue North westerly along the north side of 10th Street Northeast; and
- 20 feet by 100 feet from Oregon Avenue North westerly along the south side of 11th Street Northeast; and
- 10 feet by 200 feet between 10th Street Northeast and 11th Street Northeast along the west side of Oregon Avenue North, plus 20 feet to the north and to the south.

The vacated property would be joined with the petitioner's parcel, APN 73011035003. Both 10th and 11th Street ROWs in the area of the proposed vacations are currently 75' in width, and Oregon

Avenue North is 50' in width. The areas to be vacated are currently ROW encompassing developed public streets. Below is a discussion of existing infrastructure located within the subject ROWs.

10th Street Northeast

Water: A 6" water line is located in the area proposed to be vacated. This line would be relocated as part of the senior housing project.

Drainage: A catch basin exists in the ROWs of both 10th Street Northeast and Oregon Avenue North in the area proposed to be vacated. This basin connects back to Washington, and would be relocated as part of the senior housing project.

11th Street Northeast

Drainage: About 60' of open drainage ditch exists in the area proposed to be vacated. As part of the senior housing project, this facility would be replaced with pipe storm drain outside the area proposed to be vacated.

Oregon Avenue North

Electric: A currently unused single phase transformer vault is located a bit north of mid-block on the JPCHA property. This could potentially be used for the senior housing project. A single phase underground line runs in the right of way, located in the area proposed for vacation. PUD would require relocation or at a minimum an easement.

There is an overhead line with electric and communication facilities in this area as well. This would be relocated as part of the senior housing project.

Sanitary Sewer: A sanitary sewer line runs in Oregon Avenue North outside the area proposed to be vacated. Four service stubs serving the property exist and traverse the area proposed to be vacated. This should not cause problems, and they will be removed or capped as part of the senior housing project.

PROPERTY DETAILS

Comprehensive Plan Map Future Land Use Designation of Adjacent Property: Residential Commercial

Shoreline Master Program: Not applicable

SEPA: Not applicable

Zoning of Adjacent Property:

- North, south, and west: RC–Residential Commercial
- East: R1–Single Family Residential

Site Description: The proposed ROW vacations comprise 6,400 square feet (SF), 20'X100'X2 trending east-west along both 10th and 11th Streets Northeast and 10'X240' trending north-south along Oregon Avenue North. These vacations front on three sides of the subject property, wrapping around it like a reverse "C". The vacated ROW would be joined with the JPCHA property, which comprises four 50' X 100' lots. The area is a combination of residential and commercial in nature. The JPCHA site is graded, but undeveloped of buildings; a community garden is located on the northern two lots of the JPCHA site.

Vicinity Characteristics:

AREA	LAND USE PLAN	ZONING	EXISTING CONDITIONS
NORTH	Residential Commercial	RC	RV Park
SOUTH	Residential Commercial	RC	Residence
EAST	Single Family	R1	Residence
WEST	Residential Commercial	RC	Closed auto repair shop

Utilities and Services:

Water: City water available

Sewer: City sewer available

Transportation: Property has frontage on 10th and 11th Streets Northeast and Oregon Avenue North; the JPCHA property is located 100' east of Pacific Highway North

Public Education: Ocean Beach School District

Electricity: PUD No. 2 single phase electricity available at site

Storm water and Drainage: City of Long Beach drainage available at site

Cable: Charter Cable and several satellite providers available

Solid Waste: Area served by Peninsula Sanitation

Police and Fire: City of Long Beach

Medical and Emergency Facilities: City of Long Beach EMS, Medix ambulance service, and Ocean Beach Hospital District

Library: Timberland Regional Library in Ilwaco and Ocean Park.

Public Parks and

Recreation Area (s): Numerous park and recreation areas within the City of Long Beach and within Pacific County; within walking distance to the beach and ball fields about a block south

Public Transit: Pacific Transit District service available including Dial-A-Ride

Flood Zone: Zone B-100 Year Shallow (undetermined) Flood (this area is slated to be in Zone X in mid-May 2015 – neither the current nor future zones are Special Flood Hazard Areas)

PROCEDURAL INFORMATION

Authorizing Ordinances

Title 11, Unified Development, of the of Long Beach City code, and more specifically as follows:

City code section 11-6C-1 allows an abutting property owner to petition the City Council to vacate all or portions of street or alley ROWs ;

City code sections 11-6C-2, 3, and 4 set forth procedures for evaluating the vacation of a street or alley; and

City code sections 11-6C-6, 7, and 8 set forth how title, zoning, and vested rights are to be handled for vacated property.

This petition is required pursuant to City code **section 11-6C-1(A)**. Other applicable City regulations and guidelines are as follows:

- City of Long Beach Comprehensive Plan
- City of Long Beach unified development regulations

Process to Date

In 2014

December 11: Petition received by City to vacate portions of 10th and 11th Streets Northeast
[attached]

December 12: City Administrator notified

December 17: Site visit by City (including public works staff), designer, developer, and contractors

In 2015

- January 14: Formal request for consultation with infrastructure providers and first responders to supplement on-site review.
- January 20: On or about this date, Petitioner and city staff discussed an additional request to vacate 10' X 240' along the western right-of-way of Oregon Avenue North between 10th and 11th Streets Northeast.
- City Council considered and passed Agenda Bill (AB) 15-05, which approved Resolution 2015-03 [both attached], establishing February 17, 2015 as the day for a public hearing and possible decision. That hearing date was not less than twenty (20) days and not more than sixty (60) days from the date of the passage of said resolution.
- January 21: The City posted public notice [attached] at the subject property, Long Beach City Hall, the United States Post Office, and the Long Beach Police Department. The City also requested the Chinook Observer publish the notice on February 4 and 11, 2015.
- February 17: The Council is expected to conduct a public hearing to take public input, and may decide to close or continue the hearing.
- February 17: This is the date slated for the Council to make a decision on this matter, barring continuation of the public hearing.

Materials Submitted

The petitioner submitted the following in support of the subject request for approval:

- Petition (letter)

ANALYSIS

Regarding street or alley vacations, the Long Beach City code restricts itself to procedural requirements, and provides no guidance regarding what the City Council must consider when deciding whether or not to vacate ROWs. It is left to the City Council to make this decision based on the Council's judgment of what is in the best interest of the City. The following analysis provides input from key staff, identifies procedural requirements, and identifies relevant portions of the City's Comprehensive Plan. This analysis is intended to inform the Council's decision by identifying potential costs and benefits of this proposed partial street vacation. Where City code or Comprehensive Plan references are relevant they appear [in brackets].

I. Staff Input

Fire Chief: Chief Glasson has no comments and identified no issues with the requested vacation.

Staff recommends that 6,400 SF be vacated as proposed.

Water and Sanitary Sewer Department Head Zuern states that City facilities exist in that portion of the ROW to be vacated. He expects these facilities to be relocated to accommodate the senior housing project. City Administrator Miles is pursuing funding for these utility relocations as part of the senior housing project.

Parks, Streets, and Drainage Department Head Kitzman states that City facilities exist in that portion of the ROW to be vacated. He expects these facilities to be relocated to accommodate the senior housing project. City Administrator Miles is pursuing funding for these utility relocations as part of the senior housing project.

Engineer for Public Utilities District (PUD) No.2 of Pacific County, Jason Janda, states there several existing electrical facilities located within in that portion of the ROW to be vacated. They would need to be relocated or an easement obtained.

II. Comprehensive Plan

Comprehensive Plan Goal 1-2: Integrate new developments into the existing street networks.

The proposed street vacations would allow infill development of 30 affordable senior housing units utilizing the existing street network. Street vacations as requested conform to the Comprehensive Plan.

Comprehensive Plan Goal 2-2: Strengthen Long Beach's identity as a residential community.

The proposed street vacations would allow infill development of 30 residential dwelling units located near a commercial strip. Street vacations as requested conform to the Comprehensive Plan.

Comprehensive Plan Goal 2-3: Facilitate housing opportunities that meet the needs of all our residents.

Comprehensive Plan Goal 3-1: Allow for the creation of a variety of housing types to meet the needs of all residents.

The proposed street vacations would facilitate development of affordable senior housing, meeting the needs of an important segment of area residents. Street vacations as requested conform to the Comprehensive Plan.

Comprehensive Plan Goal 4-7: Make efforts to reduce pollution impacts within the community.

The proposed street vacations would facilitate development of housing proximate to a commercial district, which could reduce the amount of vehicle trips and associated pollution. Street vacations as requested conform to the Comprehensive Plan.

Comprehensive Plan Goal 8-3: Plan for development and improvements that will result in efficiencies in utility infrastructure and capital outlay.

The proposed street vacations would facilitate high-density development that would maximize benefit of infrastructure development. Street vacations as requested conform to the Comprehensive Plan.

III. City Code

The owners of an interest in any real estate abutting upon any street or alley may petition the city council to make vacation, giving a description of the property to be vacated. The petition must be filed with the City Administrator. [City code at 11-6C-1(A), (C)]

On December 11, 2014, the applicant, who is also the owner of property abutting the ROW of 10th and 11th Streets Northeast and of Oregon Avenue North, filed a petition with the City requesting partial street vacations, and describing that property desired to be vacated. On December 11, 2014, the City Administrator was provided notification of this petition. On January 21, 2015 the Community Development Director advised JPCHA that vacation of 10' along Oregon Avenue was advisable, and JPCHA verbally agreed. The petition as submitted and augmented conforms to code.

If the petition is signed by the owners of more than two-thirds (2/3) of the property abutting upon the street or alley sought to be vacated, the city council shall by resolution set a date when the petition will be heard at a public hearing and decided upon. The date shall be not more than sixty (60) days nor less than twenty (20) days after the date of the passage of such resolution. [City code at 11-6C-2]

The petitioners own 100% of the property adjoining that portion of 10th and 11th Streets Northeast and Oregon Avenue North proposed to be vacated, and the City Council is required to set a date for a public hearing on the matter. On January 20, 2015, the Long Beach City Council approved AB 15-05, passing Resolution 2015-03. That resolution fixed the date of a public hearing to hear input on the proposed vacation and to possibly decide the issue. The resolution as approved conforms to code.

Upon passage of the resolution, the city administrator must post notice of the petition in three (3) public places in the city and a notice in a conspicuous place on the street or alley sought to be vacated. The notice must contain:

1. A statement that a petition has been filed to vacate the street or alley described in the notice; and
2. A statement of the time and place fixed for the hearing of the petition. [City code at 11-6C-3(A)]

On or about January 21, 2015, the City posted notice of the public hearing, including a description of the property proposed to be vacated as well as a description of the date, time, and location of the hearing in three (3) public locations in the City, plus once on the property proposed to be vacated. In addition, on January 21, 2015, the City requested the Chinook Observer publish the notice in its February 4 and 11, 2015 editions. The notice as stated and posted conforms to code.

If fifty percent (50%) of the abutting property owners file written objection to the proposed vacation with the city administrator prior to the time of the hearing, the city will not proceed with the resolution. [City code at 11-6C-3(C)]

The petitioners are the abutting property owners, and no objections were raised. The City may proceed with the public hearing and decision.

Ordinance Required: The hearing on the petition must be held by the city council. If the city council decides to grant the petition or any part of it, the city council may by ordinance vacate the street or alley. The ordinance may provide that it will not become effective until the owners of property abutting upon the street or alley so vacated will compensate the city in an amount which does not exceed one-half ($\frac{1}{2}$) the appraised value of the area so vacated, except in the event the subject property was acquired at public expense, compensation may be required in an amount equal to the full appraised value of the vacation; provided, that the ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services. [11-6C-4(A)] They City also requires that vacation of streets that abut water be in the full amount.

The City Council is scheduled to conclude a public hearing on this matter at its regularly – scheduled meeting on February 17, 2015. After that hearing, should the City decide to pass an ordinance and vacate a portion of the subject ROW, the applicants shall cause to have conducted an appraisal of the market value of the area to be vacated. Since the subject ROW was not purchased at public expense, and because this ROW does not directly lead to the ocean as defined in city code, Council would be allowed to ask the applicant to pay up to a maximum of $\frac{1}{2}$ the market value. The Council may request easements for electrical infrastructure; sufficient area exists within the remaining ROW for relocation of other infrastructure.

The initiating party shall be responsible for the payment of all costs associated with the vacation, including the appraisal of the property. [11-6C-4(A)(1)]

If Council grants the vacation and passes an ordinance, the petitioners must pay to have an appraisal conducted to establish the value of the property to be vacated. Alternatively, the Council and petitioners may mutually agree to use a recent valuation conducted by Lighthouse Realty, which fixed the full market value at \$4 a SF. With ½ market value as the maximum amount allowed to be charged, the amount to be charged would be \$4 per SF / 2, or \$2 per SF. That would mean the maximum amount owed would be 6,400 SF X 2= \$12,800.

The amount a petitioner must pay for vacated ROW up to the maximum is entirely up to Council. While staff provides no recommendation as to the amount to be paid, staff does wish to point out to Council these proposed vacations are requested to make possible a community-good project of providing low income senior housing, not a simple for-profit private development.

Record Ordinance: A certified copy of the ordinance must be recorded by the city clerk-treasurer with the Pacific County auditor. [11-6C-4(B)]

This is a staff task, and if the transaction is completed, staff will record a certified copy of the ordinance with Pacific County. The petitioner will pay the costs of recording.

Title to Vacated Street or Alley: If any street or alley is vacated by the city council, the property within the limits so vacated will belong to the abutting property owners. [11-6C-6]

If the City Council vacates the ROWs of 10 and 11th Streets Northeast and Oregon Avenue North as requested, the property would be owned by the petitioners or subsequent owners of the property to which the vacated land is joined.

Zoning of Vacated Street or Alley: The zoning of vacated ROWs shall be the same as that of the abutting property to which it will belong. [11-6C-7]

If the City Council vacates that portion of the ROWs of 10th and 11th Streets Northeast and Oregon Avenue North as requested, that property would be zoned RC—Residential Commercial.

SUMMARY

The applicant petitioned the City to vacate the northern twenty feet (20') of 10th Street Northeast, from the western ROW of Oregon Avenue North westerly 100'; the southern twenty feet (20') of 11th Street Northeast, from the western ROW of Oregon Avenue North westerly 100'; and the western ten feet (10') of the right-of-way of Oregon Avenue North between 10th Street Northeast and 11th Street Northeast (two hundred feet [200']), plus twenty feet to the north and to the south. The total area proposed for vacation is 6,400 SF.

This creates no permanent problems for City facilities and functions or any problems that cannot be rectified. Analysis of the proposal against the City's Comprehensive Plan goals and regulations does not indicate the vacations as proposed would conflict with City plans or regulations.

SUGGESTED FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Suggested Findings of Fact

Staff provides the City Council of the City of Long Beach, Washington the following suggested findings of fact as input to the Council's own evaluation of Case No. VAC 2015-01. If any Findings of Fact herein are deemed Conclusions of Law, they are incorporated into the Conclusions of Law for this decision.

1. **Petition.** The City Council finds the petition comprises the following:
 - 1.1 A letter from petitioner JPCHA December 11, 2014 and subsequent and phone exchange on or about January 20, 2015.
 - 1.2 All other information contained in Case File No. VAC 2015-01.
2. **Procedures.** The Council finds the following procedures were followed:
 - 2.1 On December 11, 2014 petition was received by the City.
 - 2.2 On December 12, 2014 the City Administrator was notified.
 - 2.3 On December 17, 2014 a site visit was conducted with utility providers and City department heads. The Community Development Director consulted with City Department heads, Public Utility District No. 2 of Pacific County, and CenturyTel regarding this ROW.
 - 2.4 On January 20, 2015, the City Council approved Resolution 2015-03 setting the time and place for a public hearing on the matter.

- 2.5 On or soon after January 21, 2015 the City posted notice of the hearing at the subject site, the Long Beach post office, the Long Beach police station, and Long Beach City Hall. The City also requested the Chinook Observer publish the notice in its February 4 and 11, 2015, issues. The notice includes a statement of the proposal, a description of the land proposed to be vacated, as well as a map. The notice also includes instruction on how to submit comments on the proposal.
- 2.6 On February 17, 2015, the Long Beach City Council opened and conducted a public hearing at or soon after 7 PM to take public comment on this matter.
3. **Proposal.** The City Council finds the following regarding the proposed street vacations:
- 3.1 The petitioners request and City staff recommend that Council vacate the following, with transfer of title to the petitioners and all rights thereto:
- Northern twenty (20') of the right-of-way of 10th Street Northeast, west one hundred feet (100') from the right-of-way of Oregon Avenue North, 2,000 SF;
 - Southern twenty (20') of the right-of-way of 11th Street Northeast, west one hundred feet (100') from the right-of-way of Oregon Avenue North, 2,000 SF;
 - Western ten feet (10') of the right-of-way of Oregon Avenue North between 10th Street Northeast and 11th Street Northeast (two hundred feet [200']), plus twenty feet to the north and to the south, 2,400 SF.
- 3.2 The petitioners shall pay for all costs associated with this proposal, including and not limited to noticing fees and appraisal costs.
- 3.3 The petitioner shall pay the City up to a maximum of 50% of the appraised value of the subject property.
4. **Property characteristics.** The City Council finds the following regarding the subject property:
- 4.1 The subject property is the north and south 20' of the ROW of 10th and 11th Streets Northeast, respectively, from the western ROW of Oregon Avenue North westerly, plus the west 10' of the ROW of Oregon Avenue North between 10th Street Northeast and 11th Street Northeast (200'), plus 20' to the north and to the south. The subject property is Block 35, Lots 3-6, Tinker's Third Addition to Long Beach, Pacific County, Washington

- 4.2 Characteristics of the property to which the vacated land would become part are as follows:
 - 4.2.1 Each of the four parcels is 50' X 100'.
 - 4.2.2 All lots are graded but undeveloped with any buildings; a fenced community garden is located on Lots 5 and 6.
 - 4.2.3 All four parcels are located within the B flood zone.
 - 4.2.4 All four parcels are essentially flat.
 - 4.2.5 All four parcels are served with City and utility services.
- 5. **Subject property land use and zoning.** The City Council finds the following regarding the land use and zoning of the property proposed for vacation:
 - 5.1 The subject property is located adjacent to the RC—Residential Commercial zone pursuant to the City’s zoning regulations.
 - 5.2 The subject property is located adjacent to property designated RC—Residential Commercial on the future land use map of the Long Beach Comprehensive Plan.
 - 5.3 The current land use of the subject property is undeveloped with buildings; a community garden is located on the northern two of the JPCHA’s four parcels.
- 6. **Surrounding property land use and zoning.** The City Council finds the following regarding the land use and zoning of surrounding property:

AREA	LAND USE PLAN	ZONING	EXISTING CONDITIONS
NORTH	Residential Commercial	RC	RV Park
SOUTH	Residential Commercial	RC	Residence
EAST	Single Family	R1	Residence
WEST	Residential Commercial	RC	Closed auto repair shop and residence

- 7. **Services.** The City Council finds the following regarding services and utilities available to serve the proposed project:
 - 7.1 Water is available from the City of Long Beach.
 - 7.2 Sewer is available from the City of Long Beach.
 - 7.3 Transportation: Existing 10th and 11th Streets Northeast and Oregon Avenue North are the primary ingress/egress for the subject property.
 - 7.4 Public Education is provided by the Ocean Beach School District.
 - 7.5 Electricity is available from Pacific County PUD No. 2.

- 7.6 Solid Waste is available from Peninsula Sanitation, and service is already provided on Boulevard North.
 - 7.7 Police and Fire are provided by the City of Long Beach Police and City of Long Beach Fire Departments.
 - 7.8 Medical and Emergency Facilities are provided by the City of Long Beach EMS, Medix Ambulance Service, and Ocean Beach Hospital District No. 3.
8. **City Staff and PUD Input.** The City Council finds the following regarding staff and PUD input:
- 8.1 City staff identified 20' along 10th and 11th Streets Northeast and 10' along Oregon Avenue North as the appropriate width of the property to be vacated.
 - 8.2 City staff did not identify any conflicts regarding City services or utilities that cannot be rectified.
 - 8.3 The PUD did not identify any conflicts regarding electrical services or facilities that could not be rectified.
 - 8.4 Century Tel had not responded to the City's request for input regarding telephone facilities at the time of this writing; there are communication facilities on a pole that will be relocated as part of the senior housing project.
9. **City's Comprehensive Plan.** The City Council finds the proposed project complies with the following relevant portions of the City's Comprehensive Plan:
- 9.1 Goal 1-2, Urban Form.
 - 9.2 Goals 2-2 and 2-3, Land Use.
 - 9.3 Goal 3-1, Housing.
 - 9.4 Goal 4-7, Environment.
 - 9.5 Goal 8-3, Utilities.
10. **City's Unified Development Regulations.** The City Council finds the proposal complies with the following relevant portions of the City's Unified Development regulations:
- 10.1 11-6C-1(A), (C): Petition by owner.
 - 10.2 11-6C-2: Setting date for hearing.
 - 10.3 11-6C-3: Notice of hearing.
 - 10.4 11-6C-4: Hearing; ordinance of vacation.

10.5 11-6C-6: Title to vacated street or alley.

10.6 11-6C-7: Zoning of vacated street or alley.

II. Suggested Conclusions of Law

Staff provides the Long Beach City Council the following suggested conclusions of law as input to the Council's own evaluation of Case No. VAC 2015-01. The conclusions of law herein are made in reliance upon and with specific reference to and adoption of the Findings of Fact stated above, which are incorporated herein in their entirety by reference. If any Conclusions of Law herein are deemed Findings of Fact, they are incorporated into the Findings of Fact for this decision.

The City Council of the City of Long Beach, Washington concludes the following regarding Case No. VAC 2015-01:

1. Case No. VAC 2015-01 complies with relevant portions of the City's Comprehensive Plan, adopted via Ordinance 838, as may be amended.
2. Case No. VAC 2015-01 complies with relevant portions of the Unified Development Regulations, adopted via Ordinance 848, as may be amended.

SUGGESTED RECOMMENDATION AND ACTION

Based on the analysis and suggested findings of fact and conclusions of law, above, staff recommends the City Council adopt the above findings of fact and Ordinance No. 907 and **CONDITIONALLY APPROVE** Case No. VAC 2015-01, including vacation of the following

1. the northern 20.0' feet of the 10th Street Northeast ROW from the western ROW of Oregon Avenue North westerly 100',
2. the southern 20.0' feet of the 11th Street Northeast ROW from the western ROW of Oregon Avenue North westerly 100', and
3. the western ten feet (10') of the right-of-way of Oregon Avenue North between 10th Street Northeast and 11th Street Northeast (two hundred feet [200']), plus twenty feet to the north and to the south

and incorporating the following conditions of approval:

1. This vacation shall not be final nor property transferred until JPCHA or its developer secures funding for an initiates measures to develop a low income senior housing project on the receiving property.
2. The petitioner shall pay for all costs associated with this partial ROW vacation.

3. If required by the Long Beach City Council, the petitioner shall cause to have a market-value appraisal made of the subject property at petitioner's expense, or alternatively agree to use the results of a recent valuation based on purchase of nearby property, unless this requirement waived by the City Council.
4. If required by the Long Beach City Council, the petitioner shall pay the City of Long Beach up to 50% of the market value of the subject property.
5. The petitioner shall grant any required easements for utilities currently located in the areas proposed to be vacated that will as a result of vacation be located on the petitioner's property. The petitioner shall prepare such easements, shall record them with Pacific County, shall provide the city a copy of all such easements, and shall provide a copy of any relevant easement to a non-city utility affected in this manner.

ATTACHMENTS

1. Location map
2. Petition (letter)
3. AB 15-05
4. Resolution 2015-03
5. Notice of public hearing



**Case No. VAC 2015-01
Location Map**

Joint Pacific County Housing Authority
Partially vacate 10th Street NE, 11th Street EW, and Oregon Avenue North;
combine with property located to the north, south, and west, respectively

JOINT PACIFIC COUNTY HOUSING AUTHORITY

820 11th Ave.
LONGVIEW, WA 98632
360-423-0140 Toll free: 1-888-424-7145

December 11, 2014

Gene Miles
City Administrator
City of Long Beach
P.O. Box 310
Long Beach, WA 98631

RE: Development of Discovery Lodge

Dear Mr. Miles;

As you know, the Joint Pacific County Housing Authority is in the process of applying for funding to construct housing for low-income people 55 years of age and older on 10th St. NW. The creation of that housing complex will require vacation of portions of two streets to provide adequate parking for the residents.

I would like to formally request vacation of 20 feet of 11th St. NW and 20 feet of 10th St. NW. Both vacations are property adjacent to our project and the property present owned by the housing authority.

Please feel free to contact me if you have questions or should you need additional information. I can be reached by phone at 360-423-0140, ext. 15 or by email at chris.pegg@longviewha.org.

Thank you for your assistance on this matter.

Sincerely,

Christina M. Pegg, Executive Director
Joint Pacific County Housing Authority



**CITY COUNCIL
AGENDA BILL
AB 15-05**

Meeting Date: January 20, 2015

AGENDA ITEM INFORMATION

SUBJECT: Resolution 2015-03 - Set Public Hearing Date to Receive Public Comment Regarding Partial ROW Vacation of 10th and 11th Streets NE and Oregon Avenue N (Case No. VAC 2015-01)	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	GB
	Finance Director	
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
	Water/Wastewater Supervisor	
COST: N/A	Other:	

SUMMARY STATEMENT: Property owner Joint Pacific County Housing Authority owns land between 10th and 11th Streets NE immediately west of Oregon Avenue N. The Authority is proposing to construct a low-income senior housing development, and the requests partial ROW vacations to facilitate that community-serving project.

Pursuant to **11-6C-2 and RCW 35.79.10**, when an adequate vacation petition is received, Council shall by resolution set a date when the petition will be heard and decided upon. The hearing may be no more than sixty (60) days nor less than twenty (20) days) after the date of such resolution passage. Resolution 2015-03 accomplishes this, setting a hearing date of February 17, 2015.

Staff intends to deliver a detailed staff report on this matter at the next Council meeting on February 2, 2015.

RECOMMENDED ACTION: Pass Resolution 2015-03.

RESOLUTION 2015-03

A RESOLUTION OF THE CITY OF LONG BEACH, WASHINGTON SETTING THE TIME AND PLACE FOR A PUBLIC HEARING FOR CONSIDERING A PARTIAL STREET VACATION OF 10th and 11th STREETS NORTHEAST AND OREGON AVENUE NORTH

WHEREAS, The Joint Pacific County Housing Authority has filed a petition for the partial vacation of 10th and 11th Streets Northeast and Oregon Avenue North to facilitate development of Discovery Lodge, a low-income senior housing project; and,

WHEREAS, RCW 35.79 requires passage of a resolution setting the time and place for a public hearing to consider vacation of a public street and the posting of public notices, such public hearing to be scheduled not less than twenty (20) nor more than sixty (60) days from passage of said resolution;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE LONG BEACH CITY COUNCIL that a public hearing shall be held in the Council Chambers at Long Beach City Hall for the purpose of considering the partial street right-of-way vacation of the following areas:

- 20 feet by 100 feet from Oregon Avenue North westerly along the north side of 10th Street Northeast; and
- 20 feet by 100 feet from Oregon Avenue North westerly along the south side of 11th Street Northwest; and
- 10 feet by 240 feet between 10th Street Northeast and 11th Street Northeast along the west side of Oregon Avenue North, plus 20 feet to the north and to the south.

Said hearing shall be held on February 17, 2015 at 7:00 PM or shortly thereafter in the Long Beach City Council chambers.

The required notice shall be placed at on the subject property—which is Assessor's parcel No. 73011035003, bounded by 10th and 11th Streets Northeast and Oregon Avenue North—and at Long Beach City Hall, the United States Post Office in Long Beach, and the Long Beach Police Department.

Passed this 20th day of January 2015.

Ayes _____ Nays _____

Robert E. Andrew, Mayor

Attest:

David Glasson, Clerk

**City of Long Beach
Notice of Public Hearing**

To Consider Partial Vacation of 10th and 11th Streets Northeast and Oregon Avenue North

VACATION OF A PORTION OF 10th and 11th STREETS NORTHEAST AND OF A PORTION OF OREGON AVENUE NORTH; CASE NO. VAC 2015-01. Notice is hereby given that the Joint Pacific County Housing Authority filed a petition with the City of Long Beach on December 11, 2014 requesting the City vacate a portion of the rights-of-way of 10th and 11th Streets Northeast and a portion of Oregon Avenue North. The petition seeks vacation of the following 6,400 square feet:

- the northern 20 feet of 10th Street Northeast from the west side of Oregon Avenue 100 feet westerly, encompassing an area of 2,000 square; and
- the southern 20 feet of 11th Street Northeast from the west side of Oregon Avenue 100 feet westerly, encompassing an area of 2,000 square; and
- the western 240 feet of Oregon Avenue North between 10th Street Northeast and 11th Street northeast, plus 20 feet to the north and to the south, encompassing an area of 2,400 square feet.

All of the vacated right-of-way would be zoned RC—Residential—Commercial. **The property to which the vacated land would be joined is Block 35, Lots 3 through 6, Plat of Long Beach, Tinker’s Third North Addition, Long Beach, Pacific County, Washington.**

The Long Beach City Council passed Resolution 2015-03 fixing the time, date, and location of a Public Hearing on this petition as **7:00 pm or soon thereafter on Tuesday, February 17, 2015 in the City Council Chambers at Long Beach City Hall, 115 Bolstad Street West, Long Beach WA 98631.**

Any person interested in this request may speak for or against the request at the public hearing or submit written comments prior to the public hearing. **Written comments should be addressed to: Gayle Borchard, Community Development Director, P.O. Box 310, Long Beach, WA 98631. Written comments must be received by the end of the public hearing.**

The Meeting Room is ADA accessible. For those planning to attend who have special accessibility requirements, please contact the City of Long Beach by phone, 360.642.4421 or at the address below at least ten (10) days in advance.

Responsible Official:
Position/Title:
Phone:
email address:
Address:

Gayle Borchard
Director, Community Development
360.642.4421
planner@longbeachwa.gov
P.O. Box 310
Long Beach, WA 98631

Notice Date:

January 20, 2015