



August 6, 2020

6:00 P.M.

Medford City Hall, Council Chambers
411 W. 8th Street, Medford, Oregon

This meeting may be viewed via livestream at www.cityofmedford.org. Click on COUNCIL MEETINGS at the bottom of the first page. From there click on LIVE STREAM GOVERNMENT CHANNEL.

10. Roll Call

20. Recognitions, Community Group Reports

20.1 Citizen Awards

30. Oral Requests and Communications from the Audience

Comments will be limited to 4 minutes per individual, group or organization. Comments on all matters scheduled for a Public Hearing under Agenda Item 80 must be given during the public hearings on those matters. PLEASE SIGN IN

40. Approval or Correction of the Minutes of the July 16, 2020 Regular Meeting

50. Consent Calendar

50.1 COUNCIL BILL 2020-100

AN ORDINANCE authorizing execution of a funding agreement with St. Vincent de Paul granting \$248,691 in federal funds available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act to help provide rental assistance to eligible Medford residents that have experienced or anticipate a COVID-related hardship.

50.2 COUNCIL BILL 2020-101

AN ORDINANCE authorizing execution of a 2019-2020 Community Development Block Grant (CDBG) funding agreement with Compass House in the amount of \$170,674 to renovate the commercial kitchen in the Compass House Clubhouse public facility located at 37 N. Ivy Street in Medford.

50.3 COUNCIL BILL 2020-102

AN ORDINANCE authorizing execution of a grant agreement with the Housing Authority of Jackson County in the amount of \$310,000 in Community Development Block Grant funds for the Homeowner Repair Program.

Meeting locations are generally accessible to persons with disabilities. To request interpreters for hearing impaired or other accommodations for persons with disabilities, please contact the ADA Coordinator at (541) 774-2074 or ada@cityofmedford.org at least three business days prior to the meeting to ensure availability. For TTY, dial 711 or (800) 735-1232.

50.4 COUNCIL BILL 2020-103

A RESOLUTION approving a modification to the 2019-2020 Biennium General Fund Grant in the amount of \$5,000 to the Small Business Development Center of Southern Oregon University.

50.5 COUNCIL BILL 2020-104

AN ORDINANCE authorizing payment of \$140,699.72 to MCS Property Holdings, LLC for Street System Development Charge Credits resulting from dedication of right-of-way on East McAndrews Road and Crater Lake Avenue. (AC-19-058)

60. Items Removed from Consent Calendar

70. Ordinances and Resolutions

70.1 COUNCIL BILL 2020-105

AN ORDINANCE authorizing execution of a revocable permit for private use of certain public rights-of-way for Kids Unlimited of Oregon, an Oregon nonprofit corporation.

70.2 COUNCIL BILL 2020-106

AN ORDINANCE amending section 2.582 of the Medford Municipal Code (MMC) related to the Qualifications Based Selection process for architects, engineers, land surveyors, photogrammetrists, transportation planners and providers of related services.

80. Public Hearings

For land use matters and other quasi-judicial appeals, comments are limited to a total of 30 minutes for applicants and/or their representatives. They may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All other participants will be limited to 4 minutes.

Matters that are legislative or administrative and are not quasi-judicial, comments are limited to 4 minutes per individual, group or organization. PLEASE SIGN IN.

YOU ARE ENCOURAGED TO SUBMIT WRITTEN COMMENTS INSTEAD OF TESTIFYING IN PERSON. IF YOU PROVIDE TIMELY WRITTEN TESTIMONY BY NOON OF THE DATE OF THE MEETING, YOU NEED NOT TESTIFY IN PERSON.

80.1 COUNCIL BILL 2020-107

AN ORDINANCE changing the name of *Hoosegow Lane*, which extends west from Nebraska Drive in southeast Medford and terminates in a cul-de-sac, to *Frontier Court*. (Land Use, quasi-judicial) (SN-20-118)

80.2 COUNCIL BILL 2020-108

AN ORDINANCE amending sections 10.142 and 10.228, and adding Section 10.159A of the Medford Municipal Code, related to the removal of Public Utility Easements. (Land Use, Legislative) (DCA-19-013)

90. Council Business

90.1 Proclamations issued

None.

90.2 Committee Reports and Communications

- a. Council Officers Update
- b. Pro-Tem Judge Appointment
- c. Committee Reports and/or Communications

90.3 League of Oregon Cities Survey

100. City Manager and Staff Reports

110. Adjournment



AGENDA ITEM COMMENTARY

DEPARTMENT: Planning
PHONE: (541) 774-2390
STAFF CONTACT: Angela Durant, Principal Planner

AGENDA SECTION: Consent Calendar
MEETING DATE: August 6, 2020

COUNCIL BILL 2020-100

AN ORDINANCE authorizing execution of a funding agreement with St. Vincent de Paul granting \$248,691 in federal funds available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act to help provide rental assistance to eligible Medford residents that have experienced or anticipate a COVID-related hardship.

SUMMARY AND BACKGROUND

Council is requested to consider approval of an ordinance executing a funding agreement with St. Vincent de Paul that awards federal funds through the Coronavirus Aid, Relief, and Economic Security (CARES) Act. These funds are available to the City as an entitlement jurisdiction receiving annual Community Development Block Grant (CDBG) funding from the U.S. Department of Housing and Urban Development (HUD); and must be used to prevent, prepare for, and respond to the COVID-19 pandemic.

The City received guidance from HUD to complete a CARES Act Amendment to the 2019-2020 Action Plan in order to expedite distribution of funds. This option was more expedient than amending the current Action Plan, which was under review by HUD at the time CDBG-CV funds were made available to the City. Consequently, the proposed funding agreement is associated with the 2015-2019 Consolidated Plan. The funding agreement terms will run from execution of the agreement to June 30, 2021.

PREVIOUS COUNCIL ACTIONS

On June 18, 2020, Council approved Council Bill 2020-83, authorizing the City of Medford CARES Act Amendment to the Program Year 2019 Action Plan.

On May 21, 2020, Council Officers directed staff to proceed with the allocation of CDBG-CV funds with a primary focus on eviction prevention, pending the expiration of Governor Brown's Eviction Moratorium.

On May 14, 2020, Council held a study session to provide staff with direction on funding priorities including legal services, emergency rent payments, and child care scholarships.

On June 6, 2019, Council approved Council Bill 2019-41 adopting the 2019 Action Plan for the use of the City's CDBG funds for fiscal year 2019-2020.

On May 7, 2015, Council approved Council Bill 2015-46 adopting the 2015-2019 Consolidated Plan for Housing and Community Development.



ANALYSIS

Funding St. Vincent de Paul's COVID-19 Rent Relief Program will help provide critical housing stabilization assistance to an estimated 84 households. This anticipated outcome is based on a maximum 3-month rent award at \$988 per month. Rental assistance will be available to Medford residents, earning at or below 80% of the Area Median Income, that have experienced or anticipate a COVID-related hardship. As directed by Council, St. Vincent de Paul will not limit the monthly rent payment amount; but will pay rent one month at a time, based on individual need, other supporting resources, and availability of funds. HUD regulations do not allow for payment of back rents, and all payments will be made directly to the associated landlord or property management company. City staff has worked closely with St. Vincent de Paul to develop program criteria and application procedures that comply with HUD regulations.

St. Vincent de Paul's social service volunteers will administer the program through a combination of call-in, email, facsimile, and/or mail to ensure the safety of applicants and the agency's volunteer staff. The program is scheduled to launch after the execution of the proposed funding agreement, if approved by Council.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

A supplemental budget will be requested to accept \$248,691 in CDBG-CV funds to be budgeted in 731-CDBG Fund under the 2019-21 Adopted Biennial Budget.

TIMING ISSUES

City Council's approval is requested on August 6, 2020, in order to provide St. Vincent de Paul with a release of funds.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance as presented.
- Decline to approve the ordinance and provide direction to staff.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance authorizing execution of the agreement with St. Vincent de Paul to administer the COVID-19 Rent Relief Program.

EXHIBITS

- Ordinance
- Agreement on file in the City Recorder's Office

ORDINANCE NO. 2020-100

AN ORDINANCE authorizing execution of a funding agreement with St. Vincent de Paul granting \$248,691 in federal funds available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act to help provide rental assistance to eligible Medford residents that have experienced or anticipate a COVID-related hardship.

WHEREAS, on June 6, 2019, Council approved Council Bill 2019-41, adopting the 2019 Action Plan for the use of the City's Community Development Block Grant (CDBG) funds for fiscal year 2019-2020, and on May 14, 2020, Council held a study session to provide staff with direction on CDBG funding priorities, including legal services, emergency rent payments, and child care scholarships;

WHEREAS, on June 18, 2020, Council approved Council Bill 2020-83, authorizing the City of Medford CARES Act Amendment to the Program Year 2019 Action Plan, which includes a focus on eviction prevention, pending the expiration of Governor Brown's Eviction Moratorium; and

WHEREAS, funding St. Vincent de Paul's COVID-19 Rent Relief Program will help provide critical housing stabilization assistance to Medford residents, earning at or below 80% of the Area Median Income, that have experienced or anticipate a COVID-related hardship; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

The City Council hereby authorizes execution of a funding agreement with St. Vincent de Paul, as presented to Council by staff, granting \$248,691 in federal funds available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act to help provide rental assistance to eligible Medford residents that have experienced or anticipate a COVID-related hardship.

PASSED by the Council and signed by me in authentication of its passage this ___ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2020

Mayor



AGENDA ITEM COMMENTARY

DEPARTMENT: Planning
PHONE: (541) 774-2390
STAFF CONTACT: Angela Durant, Principal Planner

AGENDA SECTION: Consent Calendar
MEETING DATE: August 6, 2020

COUNCIL BILL 2020-101

AN ORDINANCE authorizing execution of a 2019-2020 Community Development Block Grant (CDBG) funding agreement with Compass House in the amount of \$170,674 to renovate the commercial kitchen in the Compass House Clubhouse public facility located at 37 N. Ivy Street in Medford.

SUMMARY AND BACKGROUND

Council is requested to consider approval of an ordinance executing a funding agreement with Compass House that awards 2019-2020 Community Development Block Grant (CDBG) funds to renovate a public facility located at 37 N. Ivy Street. CDBG funds will contribute to the installation of a commercial kitchen, which represents Phase II of the Compass House Clubhouse Renovation project. The City's CDBG program also supported Phase I of the project, with a \$129,661.50 investment, to complete initial renovations that now provide enhanced services to individuals with disabilities and mental illness. Services include job training, employment search, education, workforce readiness, mental health/disability services, mentorship, life skills training, substance abuse prevention, hygiene facilities, and housing navigation services. Compass House experienced a delay in launching the second phase of the project due to leverage fund uncertainty, COVID-19, and a change in leadership. However, a succession plan has been implemented and funding secured to begin construction on the commercial kitchen.

The agency's current membership of 912 is up 20.6% from the 756 reported at the completion of Phase I in August 2019. Approximately 30% of Compass House members are unhoused.

PREVIOUS COUNCIL ACTIONS

On June 6, 2019, Council approved Council Bill 2019-41 adopting the 2019/20 Action Plan for use of the City's CDBG funds.

On June 6, 2019, Council approved Council Bill 2019-45 adopting the City of Medford 2019-2021 Biennial Budget.

On May 7, 2015, Council approved Council Bill 2015-46 adopting the 2015-2019 Consolidated Plan for Housing and Community Development.

ANALYSIS

Funding this project helps achieve goals 2 and 3 of the City's 2019-2020 Consolidated Plan: 2) Improve the Ability of Low/Moderate-Income and Special Needs Populations to Become Self-Sustaining and 3) Improve Living Conditions by Addressing Community Development Projects that Improve Public Infrastructure, Public Facilities and Neighborhood Revitalization. Specific strategies used to accomplish these goals are referenced below:



- Support programs that assist low/moderate-income and special needs residents to become self-sustaining through job skills training and workforce readiness programs, transportation services and the availability and affordability of day care and after school care.
- Provide assistance to develop neighborhood facilities such as youth centers, senior centers, parks and recreation facilities, open space and community centers.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

\$170,674 budgeted in 731-CDBG Fund of the 2019-21 Adopted Biennial Budget.

TIMING ISSUES

City Council's approval is requested on August 6, 2020, in order to provide Compass House with a release of funds.

COUNCIL OPTIONS

Approve the ordinance as presented.

Modify the ordinance as presented.

Decline to approve the ordinance and provide direction to staff.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance authorizing execution of the agreement with Compass House to complete Phase II of the Compass House Property Renovation Project.

EXHIBITS

Ordinance

Agreement on file in the City Recorder's Office

ORDINANCE NO. 2020-101

AN ORDINANCE authorizing execution of a 2019-2020 Community Development Block Grant (CDBG) funding agreement with Compass House in the amount of \$170,674 to renovate the commercial kitchen in the Compass House Clubhouse public facility located at 37 N. Ivy Street in Medford.

WHEREAS, on June 6, 2019, Council approved Council Bill 2019-41, adopting the 2019-2020 Action Plan for use of the City's Community Development Block Grant (CDBG) funds, and Council Bill 2019-45, adopting the City of Medford 2019-2021 Biennial Budget;

WHEREAS, Compass House has requested additional CDBG funding as a contribution to help renovate the commercial kitchen in the Compass House Clubhouse public facility located at 37 N. Ivy Street in Medford; and

WHEREAS, funding this project helps achieve goals 2 and 3 of the City's 2019-2020 Consolidated Plan as follows: Goal 2) Improve the Ability of Low/Moderate-Income and Special Needs Populations to Become Self-Sustaining; and Goal 3) Improve Living Conditions by Addressing Community Development Projects that Improve Public Infrastructure, Public Facilities and Neighborhood Revitalization; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Council hereby authorizes execution of a 2019-2020 Community Development Block Grant (CDBG) funding agreement with Compass House, as presented to Council by staff, in the amount of \$170,674 to renovate the commercial kitchen in the Compass House Clubhouse public facility located at 37 N. Ivy Street in Medford.

PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2020

Mayor



AGENDA ITEM COMMENTARY

DEPARTMENT: Planning
PHONE: (541) 774-2390
STAFF CONTACT: Angela Durant, Principal Planner

AGENDA SECTION: Consent Calendar
MEETING DATE: August 6, 2020

COUNCIL BILL 2020-102

AN ORDINANCE authorizing execution of a grant agreement with the Housing Authority of Jackson County in the amount of \$310,000 in Community Development Block Grant funds for the Homeowner Repair Program.

SUMMARY AND BACKGROUND

Council is requested to consider approval of an ordinance executing a funding agreement with Housing Authority of Jackson County (HAJC) that awards 2020-2021 Community Development Block Grant (CDBG) program funds to the Homeowner Repair Program. The City of Medford’s Homeowner Repair Program is funded through the CDBG program and administered by the HAJC. The program provides no-interest loans to homeowners in need of repairs that are recognized as hazards to health and safety. Each loan is secured by a lien on the property with repayment due upon sale or transfer of property by owner. As liens are satisfied, the City receives program income that may be reallocated to the program for future use. The City of Medford and HAJC have been working together since 1996 to rehabilitate 469 Medford homes as of July 2020.

PREVIOUS COUNCIL ACTIONS

On May 7, 2020, City Council approved Council Bill 2020-54 adopting the 2020-2024 Consolidated Plan for the purpose of fulfilling the regulatory requirements of the CDBG program, as mandated by the U.S. Department of Housing and Urban Development (HUD).

On May 7, 2020, City Council approved Council Bill 2020-55 adopting the 2020-2021 Action Plan, approving the Homeowner Repair Program for funding.

On June 6, 2019, Council approved Council Bill 2019-45 adopting the City of Medford 2019-2021 Biennial Budget.

ANALYSIS

Funding the Homeowner Repair Program will support the rehabilitation of approximately 18-27 homes owned by low- to moderate-income (LMI) Medford residents during the program year ending June 30, 2021. This outcome helps achieve goals 1 and 3 of the City’s 2020-2024 Consolidated Plan: 1) Expand and Improve Affordable Housing Options and 3) Increase Opportunities for Low- to Moderate-Income and Special Needs Residents to Become Self-Sustaining. Specific strategies used to accomplish these goals are referenced below:

- Support rehabilitation efforts for housing in poor condition (including manufactured housing), housing in need of repairs (e.g., leaking roofs, failed heating systems, unsafe wiring, failed plumbing, and other eligible repairs), and housing in need of accessibility (ADA) modernization.



- Increase funding and support for programs that increase the inventory of lead-safe housing units.
- Increase funding for projects, programs, and activities that support populations that are aging and/or living with disabilities, such as programs that: support or incentivize modernizing and rehabilitating housing, support new and existing owner and rental properties that promote accessibility, remove architectural barriers, and promote other improvements that increase the supply of housing suitable for all ages and abilities.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

\$310,000 budgeted in 731-CDBG Fund of the 2019-21 Adopted Biennial Budget.

TIMING ISSUES

City Council's approval is requested on August 6, 2020, in order to provide Compass House with a timely release of funds.

COUNCIL OPTIONS

Approve the ordinance as presented.

Modify the ordinance as presented.

Decline to approve the ordinance and provide direction to staff.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance authorizing execution of the agreement with Housing Authority of Jackson County to administer the 2020-2021 Homeowner Repair Program.

EXHIBITS

Ordinance

Exhibit A: 2020-2021 Action Plan Public Hearing Presentation (5/7/2020)

Agreement on file in the City Recorder's Office

ORDINANCE NO. 2020-102

AN ORDINANCE authorizing execution of a grant agreement with the Housing Authority of Jackson County in the amount of \$310,000 in Community Development Block Grant funds for the Homeowner Repair Program.

WHEREAS, on May 7, 2020 City Council approved Council Bill 2020-54 adopting the 2020-2024 Consolidated Plan for the purpose of fulfilling the regulatory requirements of the Community Development Block Grant (CDBG) program, as mandated by the U.S. Department of Housing and Urban Development (HUD), and Council Bill 2020-55 adopting the 2020-2021 Action Plan, approving funding for the Homeowner Repair Program; and

WHEREAS, funding the Homeowner Repair Program will support the rehabilitation of approximately 18-27 homes owned by low- to moderate-income (LMI) Medford residents during the program year ending June 30, 2021; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

The City Council hereby authorizes execution of a grant agreement with the Housing Authority of Jackson County, as presented to Council by staff, in the amount of \$310,000 in Community Development Block Grant funds for the Homeowner Repair Program.

PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2020.

Mayor

Exhibit A

CITY COUNCIL PUBLIC HEARING

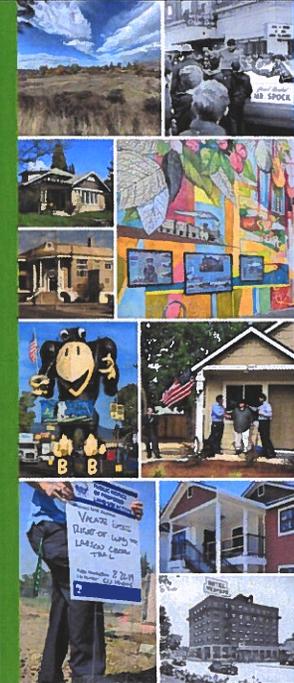
2020-2021 Action Plan

80.2 COUNCIL BILL 2020-55
May 7, 2020

Angela Durant - Principal Planner
Marie Cabler - Community Development Grants Commission
John Michaels - Housing Advisory Commission



MEDFORD
PLANNING



Public Hearing Objectives

- Fulfill the City's regulatory requirements of the Community Development Block Grant (CDBG) program, as required by the U.S. Department of Housing and Urban Development (HUD)
- Request Council approval of a resolution adopting the 2020-2021 Action Plan



2020-2021 Action Plan

Presentation Highlights

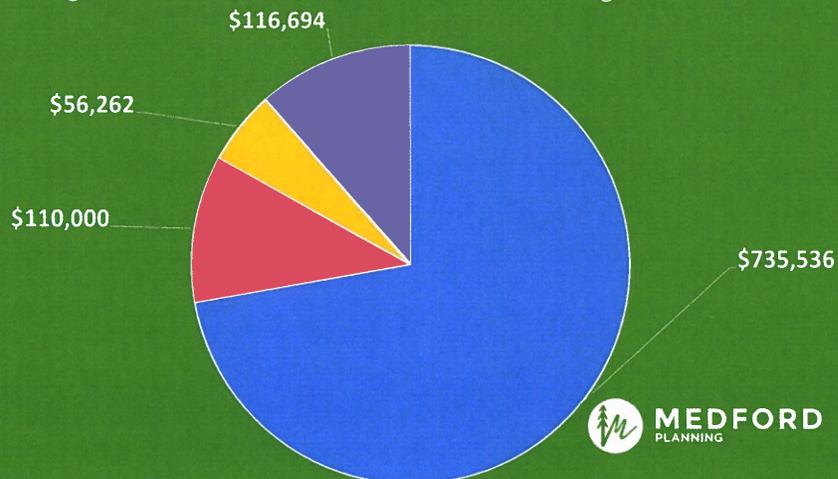
- Expected Resources
- Housing Recommendations
- Non-housing Recommendations
- Administration and Planning Activities



2020-2021 Expected Resources

\$1,018,491.96

- CDBG Entitlement
- Program Income (PY20)
- Program Income (PY19)
- NSP Program Income



Housing Recommendations

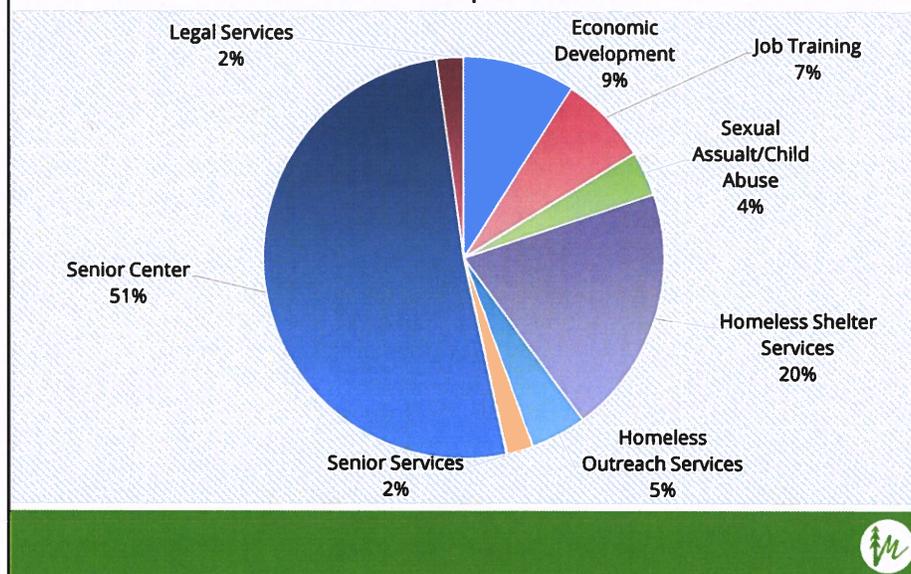
- \$574,392 or 56.4% of expected resources

Organization – Project	Funding Request	Funding Recommendation	Anticipated Performance
Housing Authority – Homeowner Repair Loans	\$200,000	\$200,000	18 owners
Columbia Care – Acquisition for Homeless Veteran Permanent Supportive Housing	\$400,000	\$219,392	6 homeless Veterans
OnTrack – Roof Rehabilitation	\$101,340	\$20,000	4 renter households
Rebuilding Together Rogue Valley – Accessible Improvements	\$50,000	\$25,000	9 seniors or persons with disabilities



Non-Housing Recommendations

- \$277,001 or 27.2% of expected resources



<h2 style="margin: 0;">Program Administration & Planning</h2> <ul style="list-style-type: none"> • \$167,099 or 16.4% expected resources 		
Activity Description	Staff Funding Recommendation	Outcome
Fair Housing Training	\$5,000	Promote fair housing choice and foster an inclusive community
6-Step Toolkit for the Development of Affordable Housing	\$10,000	Remove barriers to the development of affordable housing
Environmental Review for Affordable Housing Development	\$5,000	Remove barriers to the development of affordable housing
Program Administration	\$147,099	Maintain compliance, support subrecipients, and foster growth



Questions?

Public Hearing Objectives

- Request Council approval of a resolution adopting the 2020-2021 Action Plan



Suggested Motion: I move to approve the resolution to adopt the 2020-2021 Action Plan.





DEPARTMENT: City Attorney's Office
PHONE: (541)774-2020
STAFF CONTACTS: Eric Mitton, Deputy City Attorney

AGENDA SECTION: Consent Calendar
MEETING DATE: August 6, 2020

COUNCIL BILL 2020-103

A RESOLUTION approving a modification to the 2019-2020 Biennium General Fund Grant in the amount of \$5,000 to the Small Business Development Center of Southern Oregon University.

SUMMARY AND BACKGROUND

Council is requested to consider approval of a modification of a prior grant to Small Business Development Center (SBDC) of Southern Oregon University (SOU).

PREVIOUS COUNCIL ACTIONS

During the May 8, 2019 Budget Committee meeting, a motion was made and passed authorizing the following one-time allocations: 1) Small Business Development Center grant of \$5,000 of current Marijuana Tax Revenues; 2) \$150,000 for Firefighter Study 3) \$50,000 to Reunification; 4) \$100,000 to Homeless Action Plan; 5) \$200,000 Community Vision Plan; and 6) \$96,850 to Addiction Recovery for one year only w/policy; 7) remainder of \$795,000 to Council Visioning Fund.

On June 6, 2019, Council approved Resolution 2019-45, adopting the budget for the City of Medford for the 2019-21 biennium.

ANALYSIS

Of the \$5,000 granted to the SBDC, \$500 was specifically earmarked for the 2020 Rogue Valley Business Resource Forum. An additional \$2,000 was specifically earmarked for tuition assistance for businesses to attend Small Business Management Classes. Due to the COVID-19 pandemic and associated health restrictions, it is not possible for the 2020 Business Resource Forum to go forward.

SOU would like to redirect the \$500 earmarked for the Business Resource Forum into additional tuition assistance funding for the Small Business Management Classes; these can be conducted with applicable health restrictions. This program was already vetted as part of the original grant because a portion of the original grant went into that program as well. An alternative would be to require SOU to return the \$500 to the City. Under the circumstances presented here, staff supports redirection of the funds into tuition assistance for Small Business Management Classes.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Redirecting the funds would have no net impact to the City as the funds were already granted. Requiring return of the funds to the City would result in a net gain of \$500 to the City.

TIMING ISSUES

None.



COUNCIL OPTIONS

Approve the resolution authorizing redirection of the \$500 as written.

Modify the resolution.

Deny the resolution and provide direction to staff.

STAFF RECOMMENDATION

Staff recommends approval of the resolution authorizing redirection of the \$500.

SUGGESTED MOTION

I move to approve the resolution authorizing redirection of the \$500.

EXHIBITS

Resolution

Explanatory letter from SOU SBDC

RESOLUTION NO. 2020-103

A RESOLUTION approving a modification to the 2019-2020 Biennium General Fund Grant in the amount of \$5,000 to the Small Business Development Center of Southern Oregon University.

WHEREAS, during the May 8, 2019 Budget Committee meeting, the Committee approved a grant of \$5,000 to the Small Business Development Center (SBDC) at Southern Oregon University (SOU);

WHEREAS, \$500 of the grant was specifically earmarked for the 2020 Rogue Valley Business Resource Forum and an additional \$2,000 was earmarked for tuition assistance for businesses to attend Small Business Management Classes;

WHEREAS, due to the COVID-19 pandemic and associated health restrictions, it is not possible for the 2020 Business Resource Forum to go forward;

WHEREAS, SBDC has requested permission to redirect the \$500 earmarked for the Business Resource Forum into additional tuition assistance funding for the Small Business Management program classes; and

WHEREAS, the tuition assistance program is already vetted and approved as part of the original grant and the classes can be conducted with applicable health restrictions; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON, that the 2019-2020 Biennium General Fund Grant in the amount of \$5,000 to the Small Business Development Center of Southern Oregon University is hereby modified to allow the \$500 previously earmarked for the Business Resource Forum to be utilized as additional tuition assistance funding for the Small Business Management program classes.

PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2020

Mayor

7/20/2020

City Council
City of Medford
Medford, OR 97501

Dear Council:

This letter is to update you regarding the use of funds with respect to your grant of resources made in the early summer of 2019 for the current biennium, and to inform you of an inability to use all the funds given for their intended uses.

You gave the Southern Oregon University Small Business Development Center (SBDC) a total of \$5000 for the biennium, with each year divided into \$2000 for assistance for businesses to attend the Small Business Management Class (SBM) we offer through our SBDC Center, and an additional \$500 per year was allocated towards the Rogue Valley Business Resource Forum as sponsorship to hold that event.

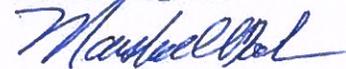
In 2019, the spending followed plan and the funds were allocated and used as the application requested and the Council directed, with a report being delivered to Council during a regularly scheduled public meeting early this past spring.

For 2020, the \$2000 tuition assistance will be used as directed by Council. The remaining \$500 allocated to the SBDC for use in hosting the 2020 Rogue Valley Business Resource Forum is unable to be allocated to that event, as that event has been cancelled for the current calendar year.

I believe there are two or more choices before us: 1) we return the \$500 to the City as unspent funds due to the inability to hold the Forum event this year due to the restrictions placed upon us as a result of the response to the COVID-19 Pandemic, 2) to change the use of the funds from Forum support to direct business support through allowing the use of the funds to augment the \$2000 earmarked for business assistance for the SBM Class, making the total \$2500 in business support for training in 2020, or 3) other purpose(s) as directed by Council.

Please let me know if any additional information is needed from me, and if not, I await your response.

With Best Regards,



Marshall Doak
Director, SOU Small Business Development Center



AGENDA ITEM COMMENTARY

DEPARTMENT: Public Works
PHONE: (541) 774-2100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Consent Calendar
MEETING DATE: August 6, 2020

COUNCIL BILL 2020-104

AN ORDINANCE authorizing payment of \$140,699.72 to MCS Property Holdings, LLC for Street System Development Charge Credits resulting from dedication of right-of-way on East McAndrews Road and Crater Lake Avenue. (AC-19-058)

SUMMARY AND BACKGROUND

The Council is requested to consider approving an ordinance authorizing payment to MCS Property Holdings LLC for Street System Development Charge (SDC) Credits resulting from dedication of right-of-way on East McAndrews Road and Crater Lake Avenue done as a condition of approval for Crater Corners Commercial Redevelopment (AC-19-058).

PREVIOUS COUNCIL ACTIONS

On August 7, 2003 Council Bill 2003-141 approved plans for street improvements, including the addition of vehicle and bicycle travel lanes, new curb, gutter, sidewalks, and driveway approaches to street segments located at the intersection of East McAndrews Road and Crater Lake Avenue.

ANALYSIS

As a condition of the Site Plan and Architectural Commission development approval, the Developer was required to dedicate additional right-of-way to meet the City's current street standards. This required the dedication of land to provide the standard half width of right-of-way which is 50-feet on East McAndrews Road and on Crater Lake Avenue. The right-of-way dedication was completed in May 2020.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The right-of-way dedication has generated a total of \$140,699.72 in Street SDC credits. SDC credit payments which exceed \$100,000 must be approved by Council prior to disbursement per Medford Municipal Code (MMC) Section 3.815(5)(c)(i)(a) and 2.503(2)(C). The land value represented by the credit amount is based on the Jackson County Real Market Value for 2019 in accordance with MMC Section 3.815(5)(a).

Payments totaling \$140,699.72 shall be made from project code 6112 R/W Dedication Payments, included on page 9-44 of the City of Medford Adopted Biennial Budget 2019-2021.

TIMING ISSUES

All SDC credits shall be paid to the Developer in cash in accordance with Section 3.815(5)(c) of the MMC. A payment of \$140,699.72 shall be made to the Developer upon approval of this ordinance.



COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance.
- Deny the ordinance and provide direction to staff.

STAFF RECOMMENDATION

Approve the ordinance for cash payments to MCS Property Holdings LLC for Street SDC credits generated as a result of right-of-way dedication on East McAndrews Road and Crater Lake Avenue, both Major Arterial streets, which were done as conditions of development approval for Crater Corners Commercial Redevelopment (AC-19-058).

SUGGESTED MOTION

I move to approve the ordinance authorizing payment of Street SDC credits to MCS Property Holdings LLC in the total amount of \$140,699.72 to be paid in accordance with Section 3.815 (5)(c) of the Medford Municipal Code.

EXHIBITS

- Ordinance
- Exhibit A - Map
- Exhibit B - SDC Credit Calculations

ORDINANCE NO. 2020-104

AN ORDINANCE authorizing payment of \$140,699.72 to MCS Property Holdings, LLC for Street System Development Charge Credits resulting from dedication of right-of-way on East McAndrews Road and Crater Lake Avenue. (AC-19-058)

WHEREAS, on August 7, 2003 Council Bill 2003-141 approved plans for street improvements, including the addition of vehicle and bicycle travel lanes, new curb, gutter, sidewalks, and driveway approaches to street segments located at the intersection of East McAndrews Road and Crater Lake Avenue. A condition of development approval required the developer, MCS Property Holdings LLC, to dedicate additional right-of-way to meet the City's current street standards;

WHEREAS, the right-of-way dedication was completed in May 2020 and has generated a total of \$140,699.72 in Street System Development Charge (SDC) credits; and

WHEREAS, Medford Municipal Code (MMC) Sections 3.815(5)(c)(i)(a) and 2.503(2)(C) require City Council approval of SDC credit payments which exceed \$100,000; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

City Council hereby authorizes payment of \$140,699.72 to MCS Property Holdings, LLC for Street System Development Charge Credits resulting from dedication of right-of-way on East McAndrews Road and Crater Lake Avenue.

PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2020

Mayor

STREET SDC CREDIT CALCULATION FORM

A. PROJECT INFORMATION

R/W Recording # 2020-012132
 R/W # 7662
 Project Name: Crater Corners
 Location: 1723 Crater Lake Ave & 1741/1749 E McAndrews Rd
 Date of Final Order 9/6/2019
 Date of R/W Dedication 4/13/2020
 Date of 1st Plan Submittal: _____
 Date of Final Acceptance: _____
 Record Drawings Approved: na (Y or N)

PLANNING NUMBER

LDS _____
 LDP _____
 PUD _____
 SPAC AC-19-058
 Bldg Permit _____
 Other _____

Developer Name: MCS Property Holdings, LLC
 Mailing Address: 1646 W Snow Avenue Suite #63
 City/State/Zip: Tampa, Florida 33606

Phone: 813.495.6536

B. STREET SDC CREDIT CALCULATIONS

1. Right-of-Way Dedication Credits

a. Street Name: Crater Lake Avenue
 1) Parent parcel: 371W19AD 501
Map Tax Lot
 Parent parcel size: 0.31 Ac x 43,560 = 13,504 sf
 Parent parcel valuation: \$254,000 (Per County)
 Unit valuation (\$/sf): \$18.81 per sf
 Area dedicated:
0 X 0 = 1,500 sf
Length Width
 Reduction for direct driveway access (if any):
0 X 0 = 0 sf
Length Width
 Net right-of-way area to credit: = 1,500 sf
 Sub-Total Credit for Right-of-way = \$ 28,214.70

Right-of-Way Dedication Credits

b. Street Name: Crater Lake Avenue
 1) Parent parcel: 371W19AD 502
Map Tax Lot
 Parent parcel size: 0.16 Ac x 43,560 = 6,970 sf
 Parent parcel valuation: \$131,100 (Per County)
 Unit valuation (\$/sf): \$18.81 per sf
 Area dedicated:
0 X 0 = 662 sf
Length Width
 Reduction for direct driveway access (if any):
0 X 0 = 0 sf
Length Width
 Net right-of-way area to credit: = 662 sf
 Sub-Total Credit for Right-of-way = \$ 12,452.39

Ex B

STREET SDC CREDIT CALCULATION FORM

Right-of-Way Dedication Credits

c. Street Name: Crater Lake Avenue & E McAndrews Road

1) **Parent parcel:** 371W19AD 503
Map Tax Lot

Parent parcel size: 1.34 Ac x 43,560 = 58,370 sf

Parent parcel valuation: \$850,910 (Per County)

Unit valuation (\$/sf): \$14.58 per sf

Area dedicated:

<u>0</u>	X	<u>0</u>	=	<u>7,845</u> sf
<small>Length</small>		<small>Width</small>		

Reduction for direct driveway access (if any):

<u>0</u>	X	<u>0</u>	=	<u>983</u> sf
<small>Length</small>		<small>Width</small>		

Net right-of-way area to credit: = 6,862 sf

Sub-Total Credit for Right-of-way = **\$ 100,032.63**

2) **Total Credit for Right-of-way** = **\$ 140,699.72**

3. **TOTAL STREET SDC CREDITS (RW + CONST)** = **\$140,699.72**

C. FORM ROUTING INFORMATION

Credit Calc's Prepared by: J. Cope Date: 5/26/2020

Credit Calc's Checked by: D. Burroughs Date: 6/10/2020

Date to Bus Mgr: _____

AIC Needed ? Y (Y or N)

Date of Council Action: _____

D. SDC CREDIT DISTRIBUTION

SDC fee per lot \$0.00 (Current rate for local street access-NA)

No. lots 1

Total SDC fees \$0.00 Deduct from Total Credit \$0.00

Excess credit (if any) to be paid 'up front' **\$140,699.72**

Total amount to be distributed btw the lots 0

CREDIT AMT TO BE DISTRIBUTED PER LOT 0

E. PROJECT ACCOUNTING

R/W Credits 6112(CE)	\$140,699.72	100.0000%
Const Cred 6111(CC)	<u>\$0.00</u>	<u>0.0000%</u>



DEPARTMENT:	Public Works Department	AGENDA SECTION:	Ordinances and Resolutions
PHONE:	(541) 774-2100	MEETING DATE:	August 6, 2020
STAFF CONTACT:	Cory Crebbin, Public Works Director Alex Georgevitch, Deputy Public Works Director		

COUNCIL BILL 2020-105

AN ORDINANCE authorizing execution of a revocable permit for private use of certain public rights-of-way for Kids Unlimited of Oregon, an Oregon nonprofit corporation.

SUMMARY AND BACKGROUND

The Council is requested to consider approving a Revocable Permit for private use of certain public rights-of-way for Kids Unlimited of Oregon, an Oregon nonprofit corporation (the Property Owner). The request is to allow the Property Owner to construct and maintain fencing along North Riverside Avenue; close a portion of an alley that runs east to west between Niantic Street and North Riverside Avenue; and memorialize a portion of an existing sports field and fencing along Niantic Street as shown on the attached exhibit map.

PREVIOUS COUNCIL ACTIONS

On February 6, 2020, Council Bill 2020-14 was approved, vacating a portion of Austin Street between Pine Street and North Riverside Avenue.

ANALYSIS

The Kids Unlimited campus has recently expanded across Austin Street and Council vacated a portion of Austin Street to allow the school to connect the newly acquired building to their existing campus. Recent concerns about safety have necessitated the need for the school to build a fence to minimize, or eliminate, the number of people crossing or loitering in the parking lot during after school hours.

Constructing the fence will necessitate the need to close a portion of the east-west alley and to remove the drive approach on North Riverside Avenue. To minimize impacts of closing the alley through the parking lot, the Property Owner will grant an extinguishable public access easement along the westerly drive aisle that will not be fenced. This will allow vehicles to have ingress and egress from Austin Street to the alley while still allowing for a secure campus. The easement cannot be extinguished until the alley is vacated or if the alley is reopened to North Riverside Avenue.

The existing sports field located at the northwest end of the campus was built partially in the public right-of-way. The existing right-of-way along the frontage of this parcel widens out to allow for a slight alignment shift to Niantic Street across Edwards Street. The field and fence were built to the back of the walk and they do not impact any public facilities. The request will not have a negative impact on any modes of travel within the public rights-of-way. No sidewalk or travel lane will be impacted by any of the proposed uses shown on the attached exhibit. The sports field is built in an area of excess right-of-way that no longer needs to be maintained by Public Works. The easement for the alley will allow for minimal, if any, inconvenience to users of the alley.



FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

The Property Owner has construction plans that can't be approved until this request is granted. They desire to complete the work prior to the school year starting.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance as presented.
- Deny the ordinance and provide direction to staff.

STAFF RECOMMENDATION

Approval of the ordinance granting Kids Unlimited of Oregon a Revocable Permit to use portions of the public rights-of-way shown on the included exhibit.

SUGGESTED MOTION

I move to approve the ordinance authorizing the Revocable Permit to Kids Unlimited of Oregon.

EXHIBITS

- Ordinance
- Exhibit A - Exhibit Map
- Correspondence with adjoining property owners
- Permit on file in the City Recorder's Office

ORDINANCE NO. 2020-105

AN ORDINANCE authorizing execution of a revocable permit for private use of certain public rights-of-way for Kids Unlimited of Oregon, an Oregon nonprofit corporation.

WHEREAS, the Kids Unlimited campus is located at 821 North Riverside Avenue in Medford, at the intersections of North Riverside, Austin Street and Edwards Street. The City Council recently vacated a portion of Austin Street near the intersection with North Riverside to allow Kids Unlimited to connect a newly acquired building to their existing campus across Austin Street to the north;

WHEREAS, Kids Unlimited has requested a revocable permit to encroach upon certain public rights-of-way for constructing and maintaining fencing along North Riverside Avenue; closing a portion of an alley that runs east to west between Niantic Street and North Riverside Avenue; and memorializing use of a portion of an existing sports field and fencing along Niantic Street;

WHEREAS, the request necessitates closing a portion of the east-west alley and removing the drive approach on North Riverside Avenue. To minimize impacts of closing the alley and allow ingress and egress from Austin Street, Kids Unlimited will grant an extinguishable public access easement that will not be extinguished until the alley is vacated or the alley is reopened to North Riverside Avenue; and

WHEREAS, the request will not have a negative impact on any modes of travel within the public rights-of-way and no sidewalk or travel lanes will be adversely impacted by the proposal; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Council hereby authorizes execution of a revocable permit, as presented to Council by staff, granting Kids Unlimited of Oregon private use of certain public rights-of-way.

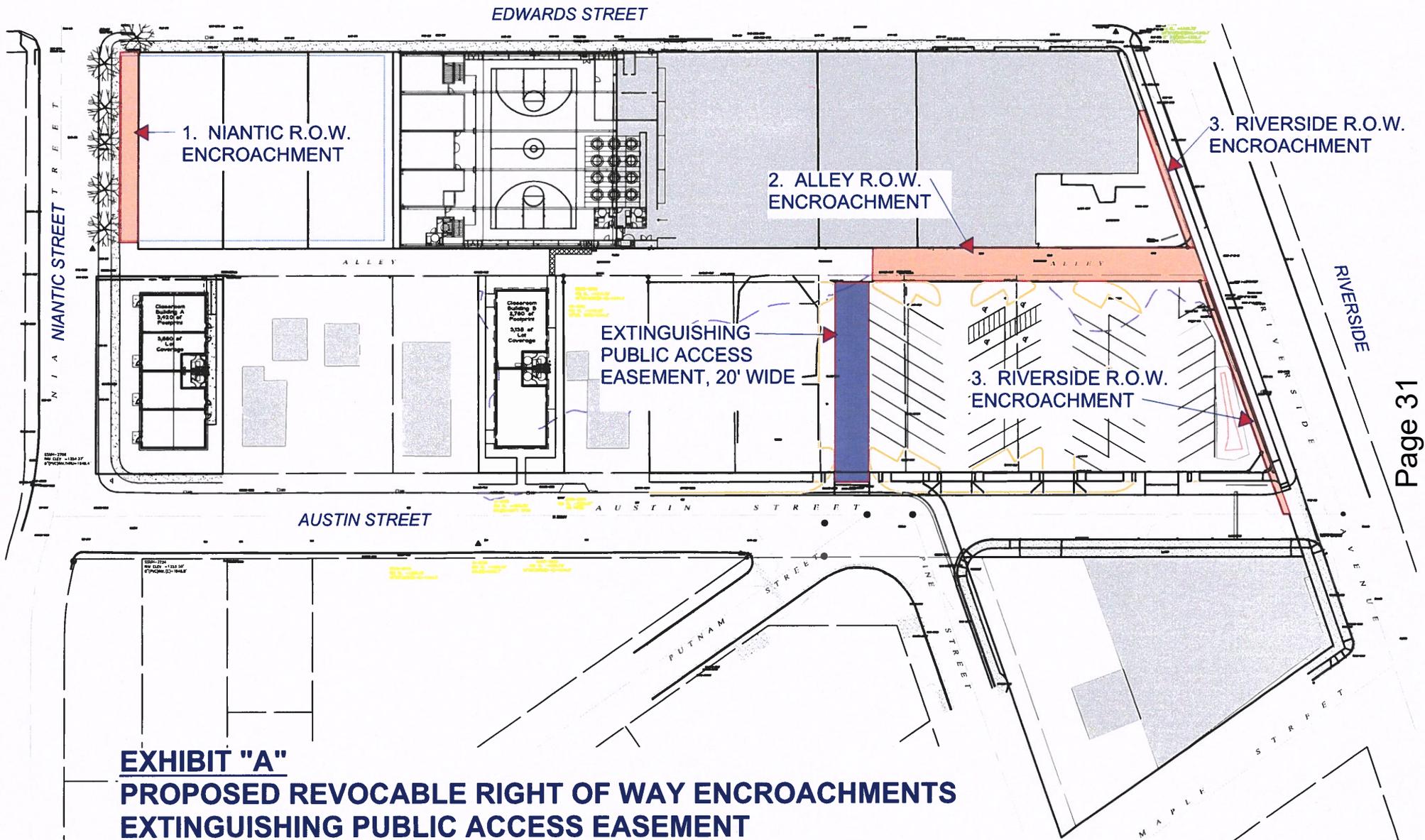
PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2020.

Mayor



7020 0640 0000 9904 8360

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Medford, OR 97501

OFFICIAL USE

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<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
Total Postage and Fees	\$4.10

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07/24/2020
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 MARIE MAYA
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 527 AUSTIN ST
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 MEDFORD, OR 97501

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Medford, OR 97501

OFFICIAL USE

Certified Mail Fee	\$3.55
Extra Services & Fees (check box, add fee as appropriate)	\$0.00
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
Total Postage and Fees	\$4.10

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 JUL 24 2020
 Postmark Here

07/24/2020
 USPS

Sent To
 Rebekah Maya
 Street and Apt. No., or PO Box No.
 511 AUSTIN ST
 City, State, ZIP+4®
 MEDFORD, OR 97501

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Ashland, OR 97520

OFFICIAL USE

Certified Mail Fee	\$3.55
Extra Services & Fees (check box, add fee as appropriate)	\$0.00
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
Total Postage and Fees	\$4.10

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 ASHLAND, OR 97520

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July 22, 2020

Robersa Maya
511 Austin Street
Medford, OR 97501

Robersa,

In our continuous commitment to improve the safety of the students and staff of the Kids Unlimited Academy, we are working with the City to request a permit to control access to the public alley between Austin Street and Edwards Street.

The approval of the permit will allow us to redirect alley traffic away from Riverside Avenue which will greatly improve safety. The design we have proposed will in no way, shape, or form, prevent you from alley access to your property.

The permit will allow us to redirect the traffic in the alley to Austin Street instead of entering Riverside Avenue in the middle of the block.

We will be providing a public access easement through our existing parking lot which will allow you to have unobstructed access from Niantic street, to your property, and exit to Austin street without having to back up or turn around.

Please feel free to contact us if you have any questions

Thank you

Tom Cole
Executive Director
Kids Unlimited Academy

July 22, 2020

Marie Maya
527 Austin Street
Medford, OR 97501

Marie,

In our continuous commitment to improve the safety of the students and staff of the Kids Unlimited Academy, we are working with the City to request a permit to control access to the public alley between Austin Street and Edwards Street.

The approval of the permit will allow us to redirect alley traffic away from Riverside Avenue which will greatly improve safety. The design we have proposed will in no way, shape, or form, prevent you from alley access to your property.

The permit will allow us to redirect the traffic in the alley to Austin Street instead of entering Riverside Avenue in the middle of the block.

We will be providing a public access easement through our existing parking lot which will allow you to have unobstructed access from Niantic street, to your property, and exit to Austin street without having to back up or turn around.

Please feel free to contact us if you have any questions

Thank you

Tom Cole
Executive Director
Kids Unlimited Academy

July 22, 2020

Nick Lee
PO Box 1239
Ashland, OR 97520

Mr. Lee,

In our continuous commitment to improve the safety of the students and staff of the Kids Unlimited Academy, we are working with the City to request a permit to control access to the public alley between Austin Street and Edwards Street.

The approval of the permit will allow us to redirect alley traffic away from Riverside Avenue which will greatly improve safety. The design we have proposed will in no way, shape, or form, prevent you from alley access to your property.

The permit will allow us to redirect the traffic in the alley to Austin Street instead of entering Riverside Avenue in the middle of the block.

We will be providing a public access easement through our existing parking lot which will allow you to have unobstructed access from Niantic street, to your property, and exit to Austin street without having to back up or turn around.

Please feel free to contact us if you have any questions

Thank you

Tom Cole
Executive Director
Kids Unlimited Academy



AGENDA ITEM COMMENTARY

DEPARTMENT:	Purchasing City Attorney's Office	AGENDA SECTION:	Ordinances and Resolutions
PHONE:	(541)774-2084 (541)774-2020	MEETING DATE:	August 6, 2020
STAFF CONTACTS: Jeff Theobald, Purchasing Manager Eric Mitton, Deputy City Attorney			

COUNCIL BILL 2020-106

AN ORDINANCE amending section 2.582 of the Medford Municipal Code (MMC) related to the Qualifications Based Selection process for architects, engineers, land surveyors, photogrammetrists, transportation planners and providers of related services.

SUMMARY AND BACKGROUND

Council is requested to consider approval of an ordinance updating the City's purchasing code to incorporate state law changes regarding requests for qualifications (RFQs) for architectural, engineering, land surveying, photogrammetric mapping, transportation planner services and related services contracts.

PREVIOUS COUNCIL ACTIONS

On December 15, 2011, Council Bill 2011-248 was approved adopting current code provision related to selection of the above types of services. The code provision has not been amended since 2011.

ANALYSIS

The current code provision governing selection of architectural, engineering, land surveying, photogrammetric mapping, transportation planner services and related services states that generally, qualifications-based selection shall be used, and pricing cannot be part of the scoring of those competitive processes.

However, in HB 2769, effective January 1, 2020, the Oregon Legislature authorized a second option for these types of solicitations. A public entity may now allocate up to fifteen percent of points in the RFP scoring process to pricing, instead of relying solely on qualifications-based selection. The proposed ordinance would adopt this option into the City of Medford's purchasing code, allowing the City to include pricing as one component of scoring for architectural and engineering services.

The proposed change also adopts the dollar threshold under which the City may use direct award instead of qualifications-based selection or requests for proposals. The City's code currently sets that threshold at \$100,000, but state law currently sets the threshold at \$250,000.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The code change does not have direct financial impact, but has the potential to reduce the cost of future public improvement contracts by allowing the City to weigh cost in addition to other consultant qualifications.



TIMING ISSUES

The state law allowing this option became effective January 1, 2020, and the City would be able to take advantage of this alternative option upon passage of such an ordinance.

COUNCIL OPTIONS

Approve the ordinance as written.

Modify the ordinance.

Deny the ordinance and provide direction to staff.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance amending Medford Municipal Code 2.582.

EXHIBITS

Ordinance

ORDINANCE NO. 2020-106

AN ORDINANCE amending section 2.582 of the Medford Municipal Code (MMC) related to the Qualifications Based Selection process for architects, engineers, land surveyors, photogrammetrists, transportation planners and providers of related services.

WHEREAS, on December 15, 2011 the City Council, via Ordinance No. 2011-248, adopted the current version of Medford Municipal Code (MMC) section 2.582 related to the screening and selection of architects, engineers and land surveyors, photogrammetrists, transportation planners and providers of related services. This code section reflects state statutory restrictions and generally requires that selection of these services be based solely on qualifications, without any consideration of pricing. The code provision has not been amended since 2011;

WHEREAS, effective January 1, 2020, the Oregon Legislature authorized a second option for these types of solicitations, which allows a public entity to allocate up to fifteen percent of points in the scoring process to pricing, instead of relying solely on consultant qualifications; and

WHEREAS, City Council desires to amend its purchasing code, allowing the City to include pricing as one component of selecting consultants providing these categories of services; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 2.582 of the Medford Municipal Code is hereby amended to read as follows:

2.582 Selection of Architectural, Engineering, Land Surveying, Photogrammetric Mapping, Transportation Planner Services and Related Services Contracts.

(1) Application.

This section applies to the screening and selection of architects, engineers and land surveyors, photogrammetrists, transportation planners and providers of related services.

* * *

This section does not apply to screening and selection of the above services when the estimated amount of those services does not exceed **\$250,000** ~~\$100,000~~. In those circumstances, and in emergencies, the services may be contracted by direct procurement with no formal solicitation required, and the City may use any reasonable or lawful contracting method to procure the services.

* * *

(2) ~~Quality~~ **Qualifications** Based Selection.

The City shall select consultants to provide architectural, engineering, survey, photogrammetry or transportation planning and related services based on the consultant's qualifications for the type of professional service required.

* * *

When using **Quality Qualifications** Based Selection, the City may use a request for proposal process with the restriction that any price or other cost-related component be sealed until after selection of the consultant. The fact that the consultant is required to submit sealed cost-related components neither requires the City to accept, nor prohibits the City from accepting, the costs-based information. The City shall rank the proposers and shall negotiate with the highest ranked proposer.

* * *

(4) Alternate Procedure Involving Pricing Information.

Notwithstanding the requirement in subsections (2) and (3) of this section that the City may not solicit or use pricing policies, proposals or other pricing information until after the City has selected a consultant, the City may use pricing policies, proposals or other pricing information as part of the City's screening and selection of prospective consultants if the City:

(a) States in solicitation documents for the procurement:

- (A) That the City will screen and select prospective consultants as provided in this subsection;**
- (B) How the City will rank proposals from prospective consultants, with a specific focus on:
 - (i) Which factors the City will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the City will use pricing policies, proposals or other pricing information in the evaluation; and**
 - (ii) The relative weight the City will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the City intends to use;****
- (C) An estimate of the cost of professional services the City requires for the procurement; and**
- (D) A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.**

(b) Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the City requires for the procurement. The City may use the criteria set forth in subsection (3) of this section to conduct the evaluation.

(c) Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph (b) of this subsection. The City may determine that as many as three of the top-ranked prospective consultants are qualified to

perform the professional services the City requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (a)(D) of this subsection from each of the top-ranked consultants. The pricing proposal:

(A) Must consist of:

(i) A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the City requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and

(ii) A reasonable estimate of hours that the prospective consultant will require to perform the professional services the City requires for the procurement; and

(B) May include, at the City's request, additional pricing information that is limited to:

(i) A description of each task that the prospective consultant understands as comprising the professional services;

(ii) A list of each individual or labor classification that will perform each task, together with the hourly rate that applies to the individual or labor classification; and

(iii) A list of expenses, including travel expenses, that the prospective consultant expects to incur in connection with providing the professional services.

(d) Permits a prospective consultant identified as qualified under paragraph (c) of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.

(e) Completes the evaluation and selects a consultant from among the three top-ranked prospective consultants that have not withdrawn as provided under paragraph (d) of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.

(5) Negotiating a Contract for Alternate Procedure Involving Pricing Information

The City and the consultant that the City selects shall mutually discuss, refine and finalize the scope of, the rates and number of hours applicable to, and the maximum compensation level for the professional services and shall negotiate conditions including, but not limited to, a performance schedule for the project. The City may not pay a compensation level that exceeds a level that the City alone determines is fair and reasonable to the City. Authority to negotiate a contract under this section does not supersede any provision of 279C.520.

(46) Disclosure of Proposals.

The City will not make available for public inspection the contents of the proposals until after the notice of intent to award has been sent.

* * *

NOTE: Matter in **bold font** is new. Matter in ~~strike through font~~ is existing law to be repealed. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2020

Mayor



AGENDA ITEM COMMENTARY

DEPARTMENT: Planning
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP, CFM, Planning Director

AGENDA SECTION: Public Hearing
MEETING DATE: August 6, 2020

COUNCIL BILL 2020-107

AN ORDINANCE changing the name of *Hoosegow Lane*, which extends west from Nebraska Drive in southeast Medford and terminates in a cul-de-sac, to *Frontier Court*. (Land Use, quasi-judicial) (SN-20-118)

SUMMARY AND BACKGROUND

Council is requested to consider a request to change the name of Hoosegow Lane to Frontier Court. The subject street extends west from Nebraska Drive, terminates in a cul-de-sac, and serves five parcels. The street is located in southeast Medford, south of Kansas Drive and west of Nebraska Drive. (File No. SN-20-118)

PREVIOUS COUNCIL ACTIONS

None.

ANALYSIS

Hoosegow Lane is a public street classified as a Residential Lane, located in southeast Medford, and currently serves five residential properties located within the Horse Arena Subdivision, Phase I. The construction of Hoosegow Lane was approved with the Final Plat of the Horse Arena Subdivision – Phase I, approved on September 26, 2019. The subject street extends northwest off of Nebraska Drive/Colorado Drive approximately 360 feet, and terminates in a cul-de-sac. Five properties are currently served by the subject street (Address: 402, 410, 418, 426, and 419). Three properties take direct access off of the subject street (418, 426, and 419), while two properties (402 and 410) take access via a Minimum Access Easement provided by the property currently addressed 418 Hoosegow Lane. All of the homes are currently under construction. None are occupied.

With the subject request, the applicant is requesting that the name Hoosegow Lane be changed to Frontier Court. The applicant’s submitted application states that “there is concern regarding the meaning of the current name and its impact to the neighborhood.”

At the public hearing held on July 9, 2020, the Planning Commission voted to forward a favorable recommendation for approval of the request.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Per MLDC 10.458(C)(1)(e), the applicant is responsible to cover the costs required to replace all necessary street signs per the standards and specifications established by the City.

TIMING ISSUES

None.



COUNCIL OPTIONS

Approve the ordinance as presented.

Modify the ordinance as presented.

Decline to approve the ordinance as presented and direct staff regarding further action.

STAFF RECOMMENDATION

Staff recommends approval of the street name change.

SUGGESTED MOTION

I move to adopt the ordinance authorizing the name Hoosegow Lane to be changed to Frontier Court.

EXHIBITS

Ordinance

City Council Report, including Exhibits A through C

Vicinity Map

ORDINANCE NO. 2020-107

AN ORDINANCE changing the name of *Hoosegow Lane*, which extends west from Nebraska Drive in southeast Medford and terminates in a cul-de-sac, to *Frontier Court*.

WHEREAS, *Hoosegow Lane* is a public street classified as a Residential Lane, located in southeast Medford, and currently serves five residential properties located within the Horse Arena Subdivision, Phase I. All of the properties have homes under construction and no homes are occupied;

WHEREAS, the applicant is requesting that the name *Hoosegow Lane* be changed to *Frontier Court*, because, "there is concern regarding the meaning of the current name and its impact to the neighborhood"; and

WHEREAS, following a public hearing on July 9, 2020, the Planning Commission voted to recommend approval of the request; and

WHEREAS, ORS 227.120 requires publication of a notice of public hearing "in a newspaper of general circulation within the municipality * * * not less than once within the week prior to the week within which the hearing is to be held." A duly noticed public hearing was held by the City Council on August 6, 2020 and the Council found renaming *Hoosegow Lane* is in the best interest of the city and the area within six miles of the City; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. The Council finds that renaming *Hoosegow Lane* is in the best interest of the city and the area within six miles of the City, and *Hoosegow Lane*, which extends west from Nebraska Drive approximately 360 feet and terminates in a cul-de-sac, is hereby renamed *Frontier Court*.

Section 2. In compliance with ORS 227.120, the City Recorder is hereby directed to cause certified copies of this Ordinance to be filed for record with the County Clerk, County Assessor and County Surveyor of Jackson County, Oregon.

PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED August _____, 2020

Mayor

State of Oregon)
County of Jackson)

On this ____ day of August, 2020, Gary H. Wheeler, as Mayor for the City of Medford, personally appeared before me, is known to me to be the person whose name is signed to this document, and acknowledged that he signed the document.

Notary Public for Oregon
My Commission expires:



MEDFORD PLANNING

CITY COUNCIL REPORT

for a Type-IV Legislative procedure: Public Street Name Change

Project Frontier Court
Applicant: DRM Construction, LLC; Agent: Neathamer Surveying, Inc.

File no. SN-20-118

To City Council *for 8/6/2020 hearing*

From Dustin Severs, Planner III

Reviewer Kelly Evans, Assistant Planning Director

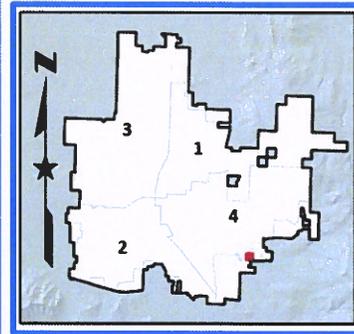
Date July 23, 2020

BACKGROUND

Proposal

Consideration of a request to change the name of Hoosegow Lane to Frontier Court. The subject street extends west from Nebraska Drive, terminates in a cul-de-sac, and serves five parcels. The street is located in southeast Medford, south of Kansas Drive and west of Nebraska Drive.

Vicinity Map



Subject Site Characteristics

GLUP UR (Urban Residential)
Zoning SFR-4 (Single-Family Residential – four dwelling units per gross acre)

Surrounding Site Characteristics

North Zone: SFR-4
 Use(s): Stonegate Estates Subdivision

South Zone: SFR-4
 Use(s): Horse Arena Subdivision

East Zone: SFR-4
 Use(s): Stonegate Estates Subdivision

West Zone: SFR-4
 Use(s): Horse Arena Subdivision

Related Projects

LDS-17-139 Horse Arena Subdivision – Phase I

Applicable Criteria

MLDC 10.458 Street Renaming, Public and Private

This section applies to the change of name of an existing street or alley, or to the naming of an already-existing but unnamed street or alley. The purpose of the street renaming procedures is to ensure use of clear and unique street names so that emergency personnel may find the streets without being hindered by similar or confusing names. Approval of street names is not a land use decision.

The approving authority shall not approve any street name unless it finds that the proposed name is consistent with the following criteria:

- (1) Proposed names shall not be the same or similar to any other street name in Jackson County;
- (2) The proposed street name must not sound the same, although spelled differently (a homonym), as any other street name in Jackson County;
- (3) The proposed street name must be simple to pronounce;
- (4) The proposed street name shall not contain Cardinal directions (north, south, east, west);
- (5) The proposed street name shall not contain offensive or derogatory terms;

- (6) The proposed street name shall not contain punctuation or special characters;
- (7) When a street makes a directional change of approximately 90 degrees or more, the street name shall change;
- (8) Street names shall continue across intersections and roundabouts;
- (9) A street may not loop around in such a way that it creates two intersections with one other street, unless the street name at one intersection is different; and,
- (10) The proposed street name must have a suffix from Table 10.458-(1), *Permitted Medford Street Suffixes* below.

Table 10.458-(1)
Permitted Medford Street Suffixes

<i>Suffix</i>	<i>Abbreviation</i>	<i>Description</i>
Avenue	AVE	Street that is continuous and not limited to a single subdivision
Boulevard	BLVD	Street with a landscaped median dividing the right-of-way
Circle	CIR	Permanently dead-end street terminating in a cul-de-sac
Court	CT	Permanently dead-end street or termination in a cul-de-sac, not longer than 660 feet in length
Drive	DR	Curvilinear street
Lane	LN	Lower-order street
Parkway	PKWY	Higher-order street with a median
Place	PL	Permanently dead-end street, termination in a cul-de-sac, or short through street, not longer than 450 feet in length
Road	RD	Higher-order street
Street	ST	Common or default suffix
Way	WAY	Curvilinear street

Approval Authority

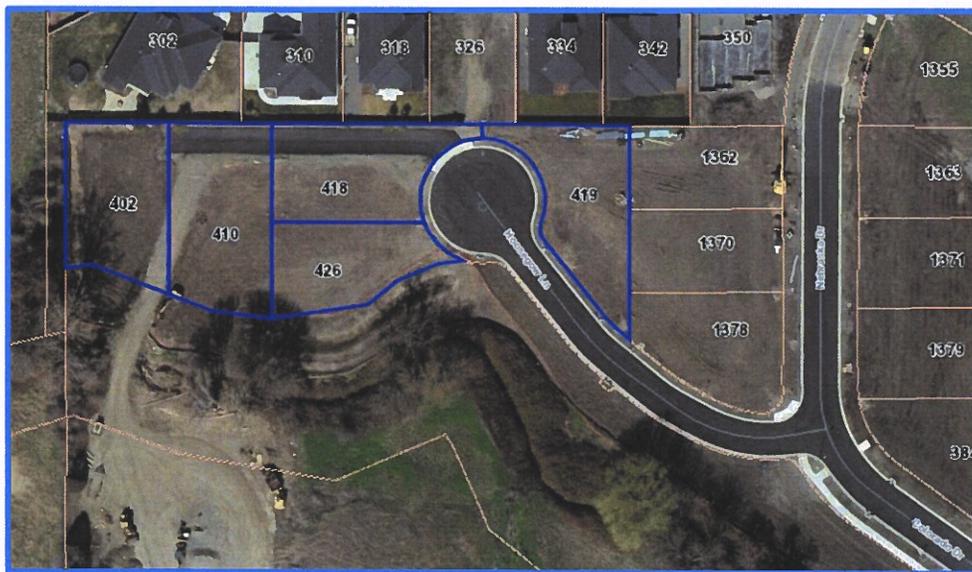
The subject request is a Type IV legislative decision. The Planning Commission is authorized to act as an advisory agency, forwarding a recommendation to City Council for proposed changes to public street names. City Council is the final approving authority.

ISSUES AND ANALYSIS

Background

Hoosegow Lane is a public street classified as a Residential Lane, located in southeast Medford, and currently serves five residential properties located within the Horse Arena Subdivision, Phase I. The construction of Hoosegow Lane was approved with the Final Plat of the Horse Arena Subdivision – Phase I, approved on September 26, 2019. The subject street extends northwest off of Nebraska Drive/Colorado Drive approximately 360 feet, and terminates in a cul-de-sac. Five properties are currently served by the subject street (Address: 402, 410, 418, 426, and 419). Three properties take direct access off of the subject street (418, 426, and 419), while two properties (402 and 410) take access via a Minimum Access Easement provided by the property currently addressed 418 Hoosegow Lane. All of the homes are currently under construction. None are occupied.

With the subject request, the applicant is requesting that the name Hoosegow Lane be changed to Frontier Court. The applicant's submitted application states that "there is concern regarding the meaning of the current name and its impact to the neighborhood."



Agency and Public Comments

None

FINDINGS AND CONCLUSIONS

Staff has prepared the findings and conclusions below. The approval criteria are in *italics*; responses follow each criterion.

B. Approval Criteria, Street Renaming, Public and Private.

The approving authority shall not approve any street name unless it finds that the proposed name is consistent with the following criteria:

- (1) Proposed names shall not be the same or similar to any other street name in Jackson County;*

No response was received indicating that there is a conflict with any existing street name. This criterion is satisfied.

- (2) The proposed street name must not sound the same, although spelled differently (a homonym), as any other street name in Jackson County;*

No response was received indicating that there is a conflict with any existing street name. This criterion is satisfied.

- (3) The proposed street name must be simple to pronounce;*

Frontier Court is simple to pronounce. This criterion is satisfied.

- (4) The proposed street name shall not contain Cardinal directions (north, south, east, west);*

No Cardinal directions are included in the proposed street name. This criterion is satisfied.

- (5) The proposed street name shall not contain offensive or derogatory terms;*

The words *Frontier Court* are not considered to be offensive or derogatory. This criterion is satisfied.

- (6) The proposed street name shall not contain punctuation or special characters;*

No punctuation or special characters are included in the proposed street name *Frontier Court*. This criterion is satisfied.

- (7) When a street makes a directional change of approximately 90 degrees or more, the street name shall change;*

The street does make an approximate directional change of 90 degrees at the

intersection with Nebraska Drive/Colorado Drive. Frontier Court terminates in a cul-de-sac, approximately 360 feet from the intersection. This criterion is satisfied.

(8) Street names shall continue across intersections and roundabouts;

This criterion is inapplicable.

(9) A street may not loop around in such a way that it creates two intersections with one other street, unless the street name at one intersection is different; and,

This criterion is inapplicable.

(10) The proposed street name must have a suffix from Table 10.458-(1), Permitted Medford Street Suffixes.

The applicant requested the suffix *Court*, a name meeting the requirements listed in MLDC 10.458(1). This criterion is satisfied.

RECOMMENDED ACTION

Based on the findings and conclusions that all of the approval criteria are met or are not applicable, the Planning Commission forwarded a favorable recommendation for approval of SN-20-118 to the City Council per the Staff Report dated July 2, 2020, including Exhibits A to C.

Staff now recommends Council adopt the ordinance approving the street name change per the City Council Report dated July 23, 2020, including Exhibits A-C.

EXHIBITS

- A Application (pages 1-2 of 6), received May 1, 2020.
- B Assessor's map, received May 1, 2020.
- C Horse Arena Subdivision – Phase I, final plat approved September 26, 2019.

CITY COUNCIL AGENDA:

AUGUST 6, 2020



PUBLIC STREET RE-NAMING APPLICATION

1. APPLICANT INFORMATION:

Name Dan Mahar

Company DRM Construction, LLC

Address PO Box 4428

City Medford State OR Zip Code 97501

Email _____

Telephone (Primary) _____ (Secondary) _____

2. AGENT INFORMATION:

Name Bob Neathamer

Company Neathamer Surveying, Inc.

Address PO Box 1584

City Medford State OR Zip Code 97501

Email bob@neathamer.com

Telephone (Primary) 541-732-2869 (Secondary) _____

3. OWNER INFORMATION:

Name Gary Ray (Tax Lots 104, 107, 108 and 111)

Company Dan Mahar, DRM Construction, LLC (Tax Lots 109 & 110)

Address PO Box 4428

City Medford State OR Zip Code 97501

Email _____

Telephone (Primary) _____ (Secondary) _____

PUBLIC STREET RE-NAMING APPLICATION

4. PROPOSED NAME CHANGE (see Page 4, Approval Criteria):

Current Name: Hoosegow Lane

Proposed Name: Frontier Court

5. PURPOSE. Applicant's reason for proposing to rename this street:

The current name suffix doesn't best represent the standards contained in Table 10.458-(1) in the City of Medford's Land Development Code. Also, there is concern regarding the meaning of the current name and its impact to the neighborhood.

6. INTERSECTIONS WITH PUBLIC STREETS:

Once the public street re-naming application is approved, the applicant will be responsible for paying the Engineering Department \$95 per sign per intersection for street signs at all intersections with public streets (see page 6). Engineering staff will install the public street signs within the public right-of-way.

7. REQUIRED SUBMITTALS:

- Application Form (signed)
- Assessor's Map showing entire length of street
- Typed mailing labels for: a) all property owners with property abutting the street right-of-way, and b) all property owners whose property has an address on the street or may have an address on the street in the future. (See label format below ↓)
- Fee
 - o \$900 plus \$95 per sign per intersection
 - o Make checks payable to *City of Medford*
 - o Pay at time of submittal to the Planning Department

372W19DB Tax Lot 3700
Jane and John Jones
000 Delta Waters Road
Medford, OR 97504

8. I HEREBY STATE THAT THE FACTS RELATED IN THE ABOVE APPLICATION AND THE PLANS AND DOCUMENTS SUBMITTED HERewith ARE COMPLETE, TRUE, CORRECT, AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Signature Robert V. Neathamer, PLS Applicant Agent Owner

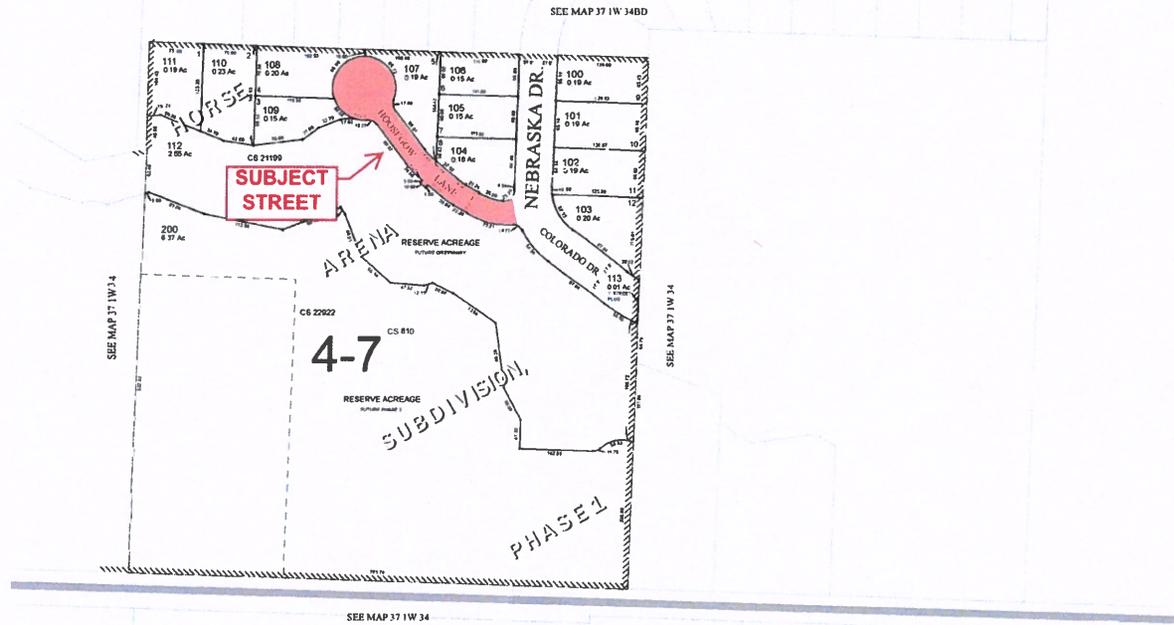
Print Name Robert V. Neathamer, President, Neathamer Surveying, Inc.

FOR ASSESSMENT AND
TAXATION ONLY

N.E. 1/4 S.W. 1/4 SEC. 34 T. 37S. R. 1W. W.M.
JACKSON COUNTY
1" = 100'

37 1W 34CA
MEDFORD

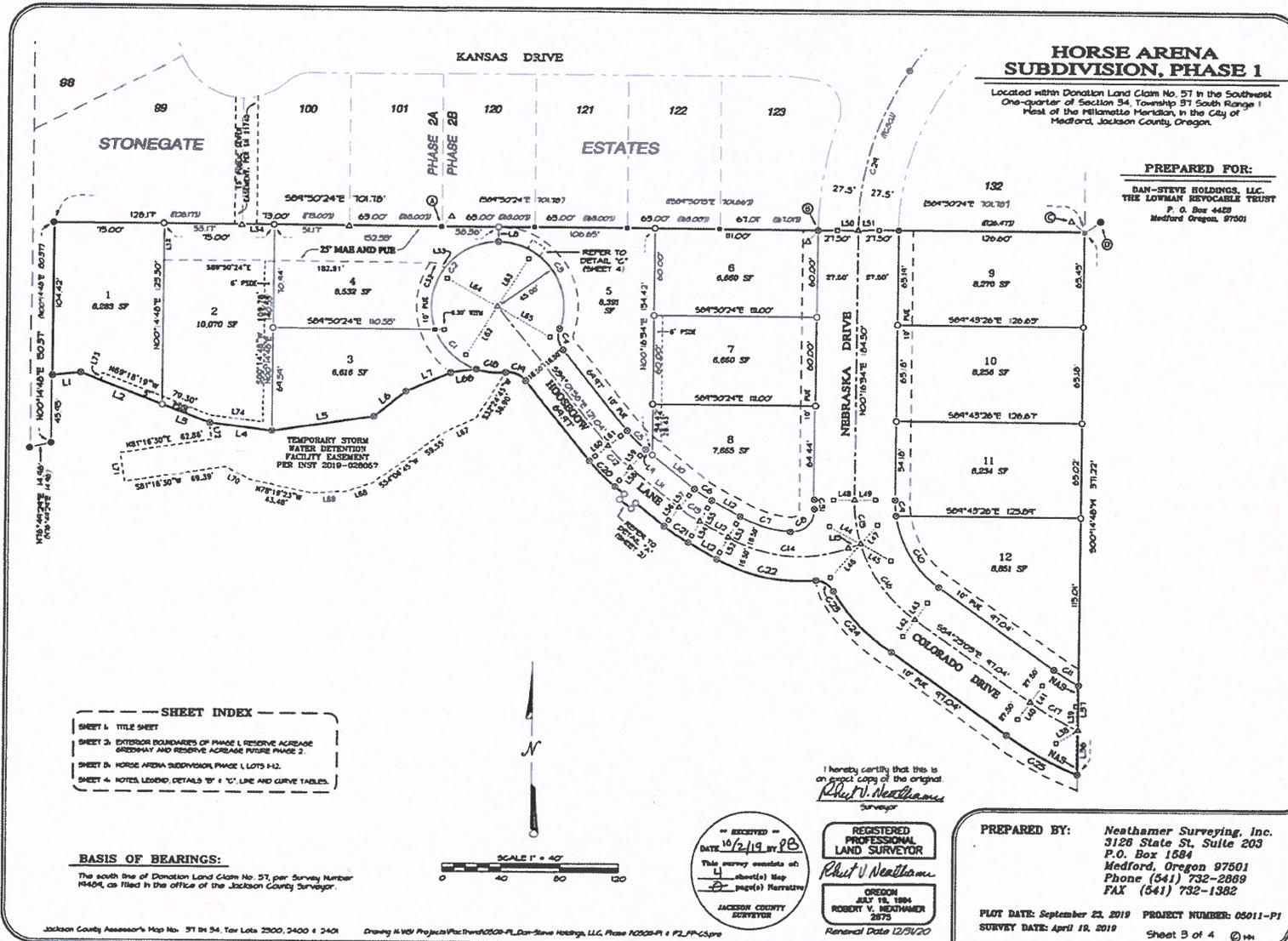
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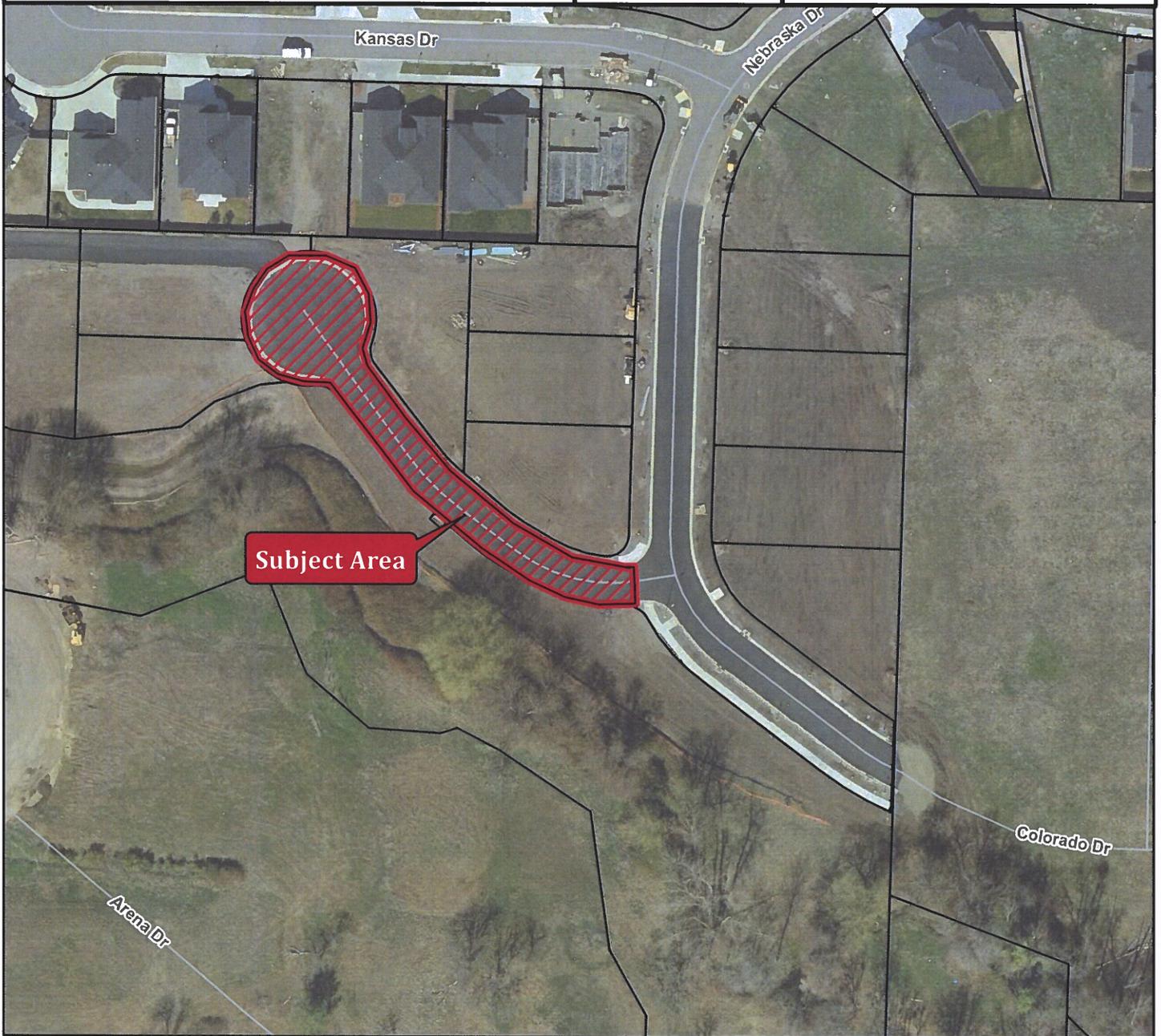
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22922
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Project Name:

**Hoosegow Lane
Renaming**

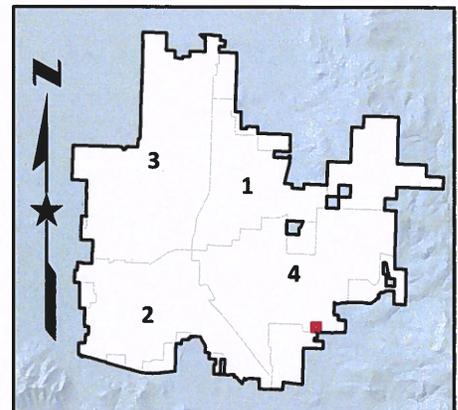
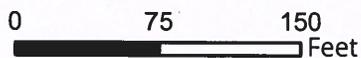
Map/Taxlot:

Horse Arena Ph 1

Legend

-  Subject Area
-  Tax Lots

5/5/2020





AGENDA ITEM COMMENTARY

DEPARTMENT: Planning
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP CFM, Planning Director

AGENDA SECTION: Public Hearing
MEETING DATE: August 6, 2020

COUNCIL BILL 2020-108

AN ORDINANCE amending sections 10.142 and 10.228, and adding Section 10.159A of the Medford Municipal Code, related to the removal of Public Utility Easements. (Land Use, Legislative) (DCA-19-013)

SUMMARY AND BACKGROUND

Council is requested to consider a legislative amendment to portions of Chapter 10, Article II that creates a new Type I land use procedure for the removal of Public Utility Easements (PUE). Currently, removing a PUE from a parcel requires a Type IV land use review (i.e. 10.228, Vacation of Public Right-of-Way). As proposed, the new PUE removal process would save approximately one to two months in the approval process. These applications are always related to development projects where time is often of the essence and delays can be costly. The proposed procedure will also simplify workflow and eliminate unnecessary work for planning staff.

The proposal (Exhibit A) would not amend the process for vacating streets, alleys, or other similar transportation related right-of-way.

The Planning Commission voted 9-0 in favor of adopting the amendment during its June 25, 2020, hearing. (File No. DCA-19-013)

PREVIOUS COUNCIL ACTIONS

No previous Council actions.

ANALYSIS

At or near the time of development of a parcel of land, a PUE is platted on a parcel to provide an easement to utility providers to convey public utilities. According to the Medford Land Development Code Section 10.471, a "...public utility easement ten feet in width shall be provided adjoining all lot lines abutting a street, or as otherwise required by the City of Medford." However, utilities are not always installed in every PUE. The result, as development concludes and time passes, is that a PUE may be empty of utilities; yet the easement will remain on the parcel and prevent placement of structures within the easement.

Property owners who wish to construct within a PUE without utilities must resolve this site development constraint. Currently, to remove a PUE, a property owner would need to seek a Type IV land use review using the Vacation process found in MLDC Section 10.228. This requires a public notice to surrounding property owners within 200 feet, a public hearing, City Council initiation, conformance with the Public Facilities element and ORS 271. However, through researching other



cities' processes for PUE removal, staff concluded that Medford's process is onerous and can be updated.

Of the cities surveyed (Ashland, Bend, Corvallis, Hillsboro, and Redmond) the removal of a PUE is administered as a Type I land use review or administrative process, approved by city staff. The proposal will create a Type I land use review for the removal of a PUE over the existing Type IV land use process. As identified in MLDC, Section 10.106 Type I land use reviews are intended for "non-discretionary administrative decisions" with "clear and objective criteria and standards". Type IV land use reviews, per Section 10.106, are identified as a land use review that are "legislative" with "the greatest degree of discretion" and "widespread and significant impacts beyond the immediate area." The removal of a PUE not needed for future development has very immediate, typically site specific impacts that are not widespread. Furthermore, the criteria proposed (Exhibit A) for removing a PUE are non-discretionary and clear and objective, making it a Type I land use review.

Additionally, the Medford legal department has concluded that the Oregon Revised Statute (ORS 271) governing the process for vacations of right-of-way is not pertinent to the process of removing a PUE. The legal department has indicated that an easement is categorically different from the list of public rights-of-way identified in the statute and that an amended process is achievable. Given the limited scale to which removing a PUE can impact public rights of way and surrounding properties, staff has concluded that the proposed Type I land use process proposed is more appropriate for removing a PUE as opposed to the current, Type IV land use review.

In short, the amendment proposes an administrative review process to approve PUE removals. Approval would come as a final sign-off on a quit claim deed, stating the removal of the PUE. The proposal is summarized as follows:

- Section 10.159A, Removal of Public Utility Easement (PUEs)
- Created criteria for application submittal and review
- Set Planning Director as final approval body
- Set a 60 day time frame in which to record with the Jackson County Clerk

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The modification of the PUE removal process will reduce the approval timeframe for the development community and eliminate staff tasks associated with a dual hearing process.

A new application form and fee will be needed for the creation of this new Type I land use review process. Staff will bring back a proposed fee to the August 20, 2020, Council meeting if the amendment is approved. It is recommended the fee structure be the same as that for a property line adjustment which is \$1,200. Currently, the removal of a PUE is processed as a Street Vacation which costs \$5,490.



TIMING ISSUES

There are no timing issues; however, the benefits of this code amendment cannot be brought to fruition without adoption.

COUNCIL OPTIONS

Approve the ordinance as presented.

Modify the ordinance as presented.

Decline to adopt the ordinance and provide direction to staff.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance authorizing the Land Development Code Amendment as described in the Council Report dated July 30, 2020, and as recommended by the Planning Commission.

EXHIBITS

Ordinance

Council Report, including Exhibits A-I (Exhibits A, F - I are attached) All other exhibits can be found at the link below.

Full Council Report Link: [http://www.ci.medford.or.us/SIB/files/Council%20Report_DCA-19-013_PUE%20Removal_7_8_20_for%20website\(1\).docx.pdf](http://www.ci.medford.or.us/SIB/files/Council%20Report_DCA-19-013_PUE%20Removal_7_8_20_for%20website(1).docx.pdf)

ORDINANCE NO. 2020-108

AN ORDINANCE amending sections 10.142 and 10.228, and adding Section 10.159A of the Medford Municipal Code, related to the removal of Public Utility Easements.

WHEREAS, Chapter 10 of the Medford Municipal Code (MMC) is often referred to as the Medford Land Development Code (MLDC);

WHEREAS, at or near the time of development of a parcel of land, MLDC Section 10.471 requires a developer to dedicate a public utility easement (PUE) ten feet in width, thereby allowing utility providers to convey public utilities to City residents. However, utilities are not always installed in every PUE, and the easement remains as an encumbrance on the parcel and prevents placement of structures within the easement;

WHEREAS, a property owner currently seeking to remove a PUE is required under MLDC Section 10.228 to seek a Type IV land use “vacation” review, which requires notice to surrounding property owners within 200 feet, a public hearing, City Council initiation, and compliance with the Public Facilities element of the Medford Comprehensive Plan and ORS Chapter 271; and

WHEREAS, given the limited scale to which removing a PUE can impact public rights of way and surrounding properties, staff is recommending that Council adopt the proposed Type I, administrative land use process for removing a PUE as opposed to the current, Type IV, public hearing review process; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. Section 10.142 of the Medford Municipal Code is hereby amended to read as follows:

10.142 Type I Land Use Actions.

Type I land use actions comprise the following land use reviews:

Type I Land Use Actions

De Minimis Revision(s) to an Approved PUD Plan

Final PUD Plan

Final Plat, **Partition**/Subdivision

Minor Historic Review

Minor Modification to Conditional Use Permit

Minor Modification to a Park Development Review

Minor Modification to a Site Plan and Architectural Review

Nonconformities

Pre-Application

Property Line Adjustment

Removal of Public Utility Easement (PUE)

Riparian Corridor Reduction or Deviation

Sign Permit
Wireless Communication Facilities in Public Right-of-Way

* * *

Section 2. Section 10.228 of the Medford Municipal Code is hereby amended to read as follows:

10.228 Vacation of Public Right-of-Way.

(A) Vacations of public rights-of-way are a means of returning ~~ownership of~~ unneeded public streets and alleys to adjacent property owners. Vacations of plats ~~and public utility easements (PUEs)~~ are a means of removing unnecessary plat designations from a parcel of land. **For the process of removing public utility easements (PUEs) from plats, see Section 10.159A.**

(B) Vacation of Public Right-of-Way Application. A request to vacate a public street, alley, easement, plat, or public place shall, in addition to the requirements contained herein, be subject to ORS Chapter 271.

(C) Vacation of Public Right-of-Way Initiation.

Vacations of public rights-of-way shall be initiated either by petition under ORS 271.080 or by City Council under ORS 271.130.

(D) Vacation of Public Right-of-Way Approval Criteria. A request to vacate shall only be approved by City Council when the following criteria have been met:

- (1) Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.
- (2) If initiated by petition under ORS 271.080, the findings required by ORS 271.120.
- (3) If initiated by the Council, the applicable criteria found in ORS 271.130.

(E) Vacation Application Form

Petitioners or persons requesting a vacation shall file an application containing the following items:

- (1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.
- (2) Legal description of area proposed to be vacated, **including an** electronic form, per the instructions of the City of Medford Planning Department.

Section 3. Section 10.159A is hereby added to the Medford Municipal Code and reads as follows:

10.159A Removal of Public Utility Easement (PUEs).

(A) Purpose. Certain properties contain public utility easements (PUEs) without any utilities located in them. It is the intent of this section to create a process for removing these PUEs.

(B) Application Form. An application to remove a PUE shall be made by the property owner

Ordinance No. 2020-108

or their designee. Request to remove PUEs shall be submitted to the Planning Department on application forms supplied by the Planning Department. The Planning Director or designee may waive the submittal of any of the materials or information that is deemed to be excessive, repetitive, or unnecessary. The application for the PUE removal shall require the following information:

- (1) A scaled site plan or vicinity map identifying the location of the public utility easement to be removed;
- (2) Legal description of the easement to be removed prepared by an Oregon registered surveyor;
- (3) Assessor's map and tax lot identification for subject properties;
- (4) A statement or letter from all franchise utilities verifying that they have been notified of the proposed removal of the PUE and do not oppose its removal;
- (5) A quitclaim deed, with a signature line for the Planning Director, acting on behalf of the City as grantor; and
- (6) Written findings that address the approval in Section 10.159A(C).

(C) Approval Criteria. The removal of a PUE shall be approved by the Planning Director if it complies with the following:

- (1) The easement does not grant public access for open space, trails, shared-use paths or other similar facilities.
- (2) The City, or a franchise utility provider licensed by the City, have no need for the public utility easement or any portion thereof.
- (3) There are no existing or known utility facilities within the easement.
- (4) Future plans for development of the property do not necessitate the PUE.

(D) Removal of PUE, Procedure.

Once the application has been submitted and deemed complete within 30 calendar days of receipt, the Planning Department shall send a copy to affected agencies, including the City and County Surveyor, Medford Public Works Engineering and other applicable agencies for review; agencies shall have 15 calendar days to provide comment. Following the agency comment period, the Planning Director, or designee, shall send a written report to the applicant indicating:

- (1) The application has been conditionally approved and is consistent with the criteria in Section 10.159A(C); or
- (2) The application has been disapproved as it is not consistent with the criteria in Section 10.159A(C).

(E) PUE Removal Recordation, Notification and Expiration.

- (1) Within sixty days of the final decision date, applicant shall, at applicant's expense, record the PUE removal quitclaim deed with the Jackson County Recorder's Office. If the quitclaim deed is not filed within sixty days the approval shall expire.
- (2) Once a decision on the removal of the public utility easement (PUE) has been made, the property owner, agent, and franchise utility companies shall be sent written notification of the decision, with a copy of the recorded quitclaim deed.

NOTE: Matter in **bold font** is new. Matter in ~~striketrough font~~ is existing law to be repealed. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

PASSED by the Council and signed by me in authentication of its passage this ____ day of August, 2020.

ATTEST: _____
City Recorder

Mayor

APPROVED August _____, 2020

Mayor



COUNCIL REPORT

for a Type- IV legislative decision: **Development Code Amendment**

Project Public Utility Easement (PUE) Removal
File no. DCA-19-013
To Mayor & City Council *for 08/06/2020 hearing*
From Planning Commission via Kyle Kearns, AICP, Planner II
Reviewer Carla Angeli Paladino, Principal Planner
Date July 30, 2020

BACKGROUND

Proposal

An amendment to portions of Chapter 10, Article II, by creating a new Type I land use procedure for the removal of Public Utility Easements.

Authority

The amendments will be reviewed as a Type IV Legislative Development Code Amendment. The Planning Commission is authorized to recommend, and the City Council to approve, amendments to the Municipal Code under Medford Municipal Code Sections 10.214 and 10.218.

History

After examining PUE vacations over the past three years, Staff representing Planning and other development services departments concluded that the City's current process was unnecessarily burdensome and adds avoidable uncertainty to the land development process. Staff is proposing that requests for removing PUEs become ministerial land use reviews (Type I) rather than the current Type IV land use review (Planning Commission and City Council hearings). The City processed two PUE vacations in 2019, none in 2018, one in 2017 (another was associated with a street vacation), and none in 2016 and 2015. As proposed, the new PUE removal process would save approximately a month to two months. The proposal (Exhibit A) would not amend the process for vacating streets, alleys, or other similar transportation related right-of-way.

Land Development Committee Meeting December 12, 2019

Staff submitted the proposal for review in a Land Development committee meeting in December of 2019. Staff received comments from several agencies, the majority required no action, however three of the comments aided in drafting the current proposal. The materials submitted for the LD meeting, proposed an amendment to set the removal of a PUE as an entirely administrative process, removing the public hearings. Comments received from the City and County surveyors (Exhibit F & G, respectively) advocated for maintaining a public hearing, per Oregon Revised Statute (ORS) 271. As proposed, PUE removals would be reviewed administratively by the Planning Director or designee. Comments from agencies and the public are addressed further in the Findings and Conclusions of this Council report.

Planning Commission Hearing June 25, 2020

The Planning Commission voted 9-0 in favor of the proposal at the June 25, 2020 public hearing. According to the minutes (Exhibit I) there was no public testimony received and Deputy City Attorney Eric Mitton clarified the legal position taken on the proposal and conformance with State law.

ISSUES AND ANALYSIS

Removal of a public utility easement from land within the City of Medford, is put through the same land use review as vacating a road or sidewalk. ORS 271, Use and Disposition of Public Lands Generally; Easements states that a party wishing to petition for a vacation may do so for "...any street, avenue, boulevard, alley, plat, public square or other public place..." §ORS 271.080(1). Although not explicitly stated as utility easements in ORS 271, public place is identified. Therefore, it has been the practice of the City to send public utility easements through the vacation process.

But this reading unnecessarily conflates the PUE with "public place". Deputy City Attorney Eric Mitton offered the following opinion:

"No LUBA or Court of Appeals case has expressly addressed whether the statutory vacation process is necessary to terminate a PUE, but based on a commonly-applied maxim of statutory construction, I do not believe that the "or other public place" catchall in ORS 271.080 is referring to public utility easements. Under Oregon rules of statutory construction, when a general catchall follows a list of specific items, the catchall refers to others of the same kind. *State v. Corcilius*, 294 Or App 20, 29 (2018) (explaining "ejusdem generis" and summarizing Oregon's case law on the

maxim). Here, that catchall follows the list of specifics “street, avenue, boulevard, alley, plat, public square,” all of which are places where members of the public inherently have a right to travel and pass through. A PUE is a fundamentally different concept than those list of specifics, so I don’t think the catchall was intended to include PUEs.”

Email Communication from Eric Mitton to Kyle Kearns “RE: PUE Vacation Amendment” dated Tuesday, April 14, 2020.

Medford’s current process differs from one that is consistent with this opinion as well as those utilized in other municipalities in this state. For example, Ashland reviews PUE removals through City Council with a quitclaim deed. Scott Fleury, the Public Works Director of Ashland, stated in an email (dated November 19, 2019) that “I don’t think we have anything formally adopted in our municipal code with respect to PUE vacations only ROW vacations that generally follows ORS requirements.” The City of Hillsboro has an administrative process, which once completed, the PUE vacation is considered at the next City Council meeting for a consent calendar reading. The City of Corvallis and Bend process requests for PUE vacation administratively, without a public hearing.

The City of Medford uses the provisions outlined in ORS 271 to administer the process of vacating a PUE. Yet, as identified by the aforementioned research, the current process for “vacating PUEs” is not needed to be considered in the same manner as streets, public plazas or boulevards. Therefore, staff has proposed Exhibit A for replacing the PUE “vacation” process with a new, administrative process (Type I).

Proposal Summarized

In regards to process, the removal of a PUE will now be consistent with a Type I land use review. Staff modeled the draft text after the processes reviewed in Hillsboro and Ashland, while combining Medford’s process for Property Line Adjustments (§10.158). As proposed, the new process has clear and objective criteria included that is not currently in the MLDC.

Staff is proposing that the Planning Director review and approve PUE removals. Approval would be made final with the execution of a quit claim deed, stating the removal of the PUE.

The proposal is summarized as follows:

- Section 10.159A, Removal of Public Utility Easement (PUEs)
- Criteria for application submittal and review

- Set Planning Director or designee as final approval body
- Set a sixty day time frame in which to record with the Jackson County Recorder

FINDINGS AND CONCLUSIONS

The criteria that apply to code amendments are in Medford Municipal Code §10.218. The criteria are rendered in italics; findings and conclusions in roman type.

Land Development Code Amendment. The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:

10.218(A). Explanation of the public benefit of the amendment.

Findings

When a parcel is considered for development review, typically a land division or site plan review, in the City of Medford it is a requirement of the Land Development Code that a "...public utility easement ten feet in width...be provided adjoining all lot lines abutting a street, or as otherwise required by the City of Medford," (per section 10.471). PUEs can be located in the front, side and rear yards. At or near the time of development of a parcel the PUE is used to accommodate utilities needed to support development. However, utility providers do not use every PUE.

The result, as development concludes and time passes, is that a PUE may be empty of utilities; yet the easement will remain on the parcel and prevent placement of structures within the easement. Property owners who wish to construct within a PUE without utilities are then restricted. Currently, to remove such a PUE, a property owner would need to seek a Type IV land use review using the Vacation process found in MLDC section 10.228. This requires a public notice to surrounding property owners within 200 feet, a public hearing, City Council initiation, and compliance with the Public Facilities element and ORS 271. However, through researching other cities' processes for PUE removal, staff concluded that Medford's process is unnecessary and onerous.

Conclusions

Of the cities surveyed (Ashland, Bend, Corvallis, Hillsboro, and Redmond) the removal of a PUE is administered as a Type I land use review or administrative process, approved by city staff. As identified in MLDC, Section 10.106 Type I

land use reviews are intended for “non-discretionary administrative decisions” with “clear and objective criteria and standards”. Type IV land use reviews, per Section 10.106, are identified as a land use review that are “legislative” with “the greatest degree of discretion” and “widespread and significant impacts beyond the immediate area.” The removal of a PUE not needed for future development has very immediate impacts that are not widespread, Furthermore, the criteria proposed (Exhibit A) for removing a PUE is non-discretionary and clear and objective, making it a Type I land use review.

Additionally, the criteria proposed for removing PUEs adds transparency and clarity to the process. Current Medford Land Development Code (MLDC) lacks criteria on what to submit for a PUE removal. As proposed, the additional criteria will alleviate this deficiency. Furthermore, the removal of the public hearing will shorten the timeline for approval by more than two months as the new process has a turnaround time of 45 days as opposed to two public hearings requiring a minimum of three-four months.

In short, the intent of the amendment is to add clarity to this process; remove an onerous land use process that has little public benefit; and to shorten timelines for removing PUEs, all benefiting the public.

The criterion has been satisfied.

10.218(B). The justification for the amendment with respect to the following factors:

1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.

Findings

The proposed code amendment supports the goals, policies, and action items of the following Comprehensive Plan Elements; they are as follows:

Public Facilities – General Public Facilities Goals, Policies, and Implementation Measures

Goal 1: To assure that the development is guided and supported by appropriate types and levels of urban facilities and services, provided in a timely, orderly, and efficient arrangement.

Policy 1-B: The City of Medford shall encourage other agencies that are responsible for the planning and/or provision of public facilities

and services within Medford to coordinate public facility planning consistent with Medford's Comprehensive Plan. Such coordination should assure, to the greatest extent possible, the logical and efficient provision of the following public facilities and services:

- Energy and communication services

Conclusions

In creating a Type I land use process for the removal of PUEs (Exhibit A), the City would enable private property owners, utility providers, and "other agencies that are responsible for the planning and/or provision of public facilities and services within Medford to coordinate public facility planning consistent with Medford's Comprehensive Plan. The new process requires sign off from the utility providers and review from City staff including the Planning Director, Public Works department and City Surveyor, all of whom would ensure compliance with the Comprehensive Plan. Lastly, the new process is consistent with the "logical and efficient provision of ... energy and communication services," as the new process relies on clear and objective standards for review and approval.

The criterion has been satisfied.

2) Comments from applicable referral agencies regarding applicable statutes or regulations.

Findings

Staff took the proposal to the Land Development Committee (LD) meeting on December 18, 2019. The intent of LD meetings is to solicit comment from applicable agencies who review development in the City. Official "No Comment" memorandums were received from the following departments/agencies:

Medford Fire and Rescue – (Exhibit B)

Medford Building Department – (Exhibit C)

Medford Public Works, Traffic Signal Electrical Inspector – (Exhibit D)

Jackson County Roads – (Exhibit E)

Additional comments were received from the City Surveyor (Exhibit F),

Jackson County Surveyor (Exhibit G) and Avista Corporation (Exhibit H).

Comments received from the Avista Corporation provided the direction to include a requirement that franchise utility companies be informed of the vacation, when approved (see Exhibit A, §10.159A[C][3][b]). Comments from the City and County surveyors provided additional insight into the process of establishing and then removing PUEs; the aforementioned surveyors supported maintaining the current Type IV land use review.

Conclusions

A large majority of the comments received required no changes to the proposed text or staff made different conclusions. Staff has incorporated applicable directives.

As reviewed in the "Issues and Analysis" section of this report, the Medford Legal Department has concluded that "A PUE is a fundamentally different concept than those list of specifics [in ORS 271], so I don't think the catchall was intended to include PUEs." The City and County surveyor concluded that a PUE is dedicated to the public and therefore should be reviewed under the provisions of ORS 271 and the Type IV land use review, Vacations (MLDC Section 10.228).

However, the planning staff and Planning Commission agree with the legal department that a PUE is not a "public place" as in substance or law as defined in ORS 271, and therefore removal of a PUE should not be considered as a Type IV land use review. Per Section 10.106, Type IV land use reviews are "legislative" with "the greatest degree of discretion" and "widespread and significant impacts beyond the immediate area." Staff addressed this in the above Findings addressing 10.218(A). The removal of a vacant PUE is not "widespread", nor does it have "significant impacts beyond the immediate area." Thus, the application of broad discretion allowed by Type IV Legislative Land Use Decisions is neither required nor is it appropriate. To the contrary, a Type I review process that is a "non-discretionary administrative decision" with "clear and objective criteria and standards" provides a review process that is sufficient to protect the public interest and the rights of private property owners.

It is staff's conclusion that a PUE removal (Exhibit A) is consistent with the Type I land use review and is not considered a public place as defined in ORS 271, contrary to the comments received.

This criterion is found to be satisfied.

3) Public comments.

Findings

To date, no public comment has been received.

Additionally, staff had solicited public comment from a group of local professionals, experts, developers, non-profit organizations and other agencies affected by changes to the Medford Land Development Code. This list is in excess of 45 individual persons. Lastly, staff will post the amendment to the City website a minimum of a week prior to the public hearing.

Conclusions

This criterion is found to be satisfied.

4. Applicable governmental agreements.

Findings

Staff is proposing amendments to land use approvals, consistent with State law. Additionally, no agreements are proposed to change.

Conclusions

This criterion is found to be not applicable.

RECOMMENDED ACTION

Upon finding that all of the applicable criteria are satisfied or not applicable, adopt the ordinance per the Council Report dated July 30, 2020 including Exhibits A through I.

Note: Exhibits B – E are not attached. The full set of exhibits can be obtained from the Planning Department and at the link below.

[http://www.ci.medford.or.us/SIB/files/Council%20Report_DCA-19-013_PUE%20Removal_7_8_20_for%20website\(1\).docx.pdf](http://www.ci.medford.or.us/SIB/files/Council%20Report_DCA-19-013_PUE%20Removal_7_8_20_for%20website(1).docx.pdf)

EXHIBITS

- A Proposed amendment – DCA-19-013
- B Medford Fire-Rescue Department Comment
- C Medford Building Department Comment
- D Medford Public Works, Traffic Signal Electrical Inspector Comment
- E Jackson County Roads Comment
- F City Surveyor, Jon Proud, Comment
- G Jackson County Surveyor, Scott Fein, Comment
- H Avista Corporation Comment
- I Planning Commission Hearing Minutes – June 25, 2020

CITY COUNCIL AGENDA:

AUGUST 6, 2020

Exhibit A

Proposed Text DCA-19-013

~~Deleted Text~~ New Text

ARTICLE II - PROCEDURAL REQUIREMENTS

10.142 Type I Land Use Actions.

Type I land use actions comprise the following land use reviews:

Type I Land Use Actions

De Minimis Revision(s) to an Approved PUD Plan

Final PUD Plan

Final Plat, ~~Partition~~/Subdivision

Minor Historic Review

Minor Modification to Conditional Use Permit

Minor Modification to a Park Development Review

Minor Modification to a Site Plan and Architectural Review

Nonconformities

Pre-Application

Property Line Adjustment

~~Removal of Public Utility Easement (PUE)~~

Riparian Corridor Reduction or Deviation

Sign Permit

Wireless Communication Facilities in Public Right-of-Way

* * *

10.159A Removal of Public Utility Easement (PUEs)

(A) Purpose. Certain properties contain public utility easements (PUEs) without any utilities located in them. It is the intent of this section to create a process for removing these PUEs

(B) Application Form. An application to remove a PUE shall be made by the property owner or their designee. Request to remove PUEs shall be submitted to the Planning Department on application forms supplied by the Planning Department. The Planning Director or designee may waive the submittal of any of the materials or information that is deemed to be excessive, repetitive, or unnecessary. The application for the PUE removal shall require the following information:

(1) A scaled site plan or vicinity map identifying the location of the public utility easement to be removed;

(2) Legal description of the easement to be removed prepared by an Oregon registered surveyor;

(3) Assessor's map and tax lot identification for subject properties;

- (4) A statement or letter from all franchise utilities verifying that they have been notified of the proposed removal of the PUE and do not oppose its removal;
- (5) A quitclaim deed, with a signature line for the Planning Director,
- (6) Written findings that address the approval in Section 10.159A(C).

(C) Approval Criteria. The removal of a PUE shall be approved if it complies with the following:

- (1) The easement does not grant public access for open space, trails, shared-use paths or other similar facilities.
- (2) The City, or a franchise utility provider licensed by the City, have no need for the public utility easement or any portion thereof.
- (3) There are no existing or known utility facilities within or near the easement.
- (4) Future plans for development of the property do not necessitate the PUE.

(D) Removal of PUE, Procedure.

Once the application has been submitted and deemed complete within 30 calendar days of receipt, the Planning Department shall send a copy to affected agencies, including the City and County Surveyor, Medford Public Works Engineering and other applicable agencies for review; agencies shall have 15 calendar days to provide comment. Following the agency comment period, the Planning Director, or designee, shall send a written report to the applicant indicating:

- (1) The application has been conditionally approved and is consistent with, the criteria in Section 10.159A(C); or
- (2) The application has been disapproved as it is not consistent with the criteria in Section 10.159A(C).

(E) PUE Removal Recordation, Notification and Expiration.

- (1) Within sixty days of the final decision date, the PUE removal quitclaim deed shall be recorded with the Jackson County Recorder's Office. If the quitclaim deed is not filed within sixty~~thirty~~ days the approval shall expire.
- (2) Once a decision on the removal of the public utility easement (PUE) has been made, the property owner, agent, and franchise utility companies shall be sent written notification of the decision, with a copy of the quitclaim deed.

* * *

10.228 Vacation of Public Right-of-Way.

(A) Vacations of public rights-of-way are a means of returning ~~ownership of~~ unneeded public streets and alleys to adjacent property owners. Vacations of plats ~~and public utility easements (PUEs)~~ are a means of removing unnecessary plat designations from a parcel of land. For the process of removing public utility easements (PUEs) from plats, see Section 10.159A.

(B) Vacation of Public Right-of-Way Application. A request to vacate a public street, alley, easement, plat, or public place shall, in addition to the requirements contained herein, be subject to ORS Chapter 271.

(C) Vacation of Public Right-of-Way Initiation.

Vacations of public rights-of-way shall be initiated either by petition under ORS 271.080 or by City Council under ORS 271.130.

(D) Vacation of Public Right-of-Way Approval Criteria. A request to vacate shall only be approved by City Council when the following criteria have been met:

(1) Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.

(2) If initiated by petition under ORS 271.080, the findings required by ORS 271.120.

(3) If initiated by the Council, the applicable criteria found in ORS 271.130.

(E) Vacation Application Form

Petitioners or persons requesting a vacation shall file an application containing the following items:

(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.

(2) Legal description of area proposed to be vacated, including an electronic form, per the instructions of the City of Medford Planning Department.

* * *
* * *

Exhibit F

City Surveyor, Jon Proud, Comment

From: [Jon M. Proud](#)
To: [Jodi K. Cope](#); [Kyle W. Kearns](#)
Cc: [Douglas E. Burroughs](#); [Alex T. Georgevitch](#)
Subject: RE: DCA-19-013 PUE Vacation
Date: Monday, December 16, 2019 1:24:59 PM
Attachments: [image002.jpg](#)
[image004.jpg](#)

Jodi and Kyle, I believe the planning department sent this proposed code change to me for my professional input as the City Surveyor opposed to public works input (?). Either way I have compiled the following for consideration of amending the code section.

To whom it may concern:

Re: DCA-19-013 PUE Vacation proposed code amendment

It is my opinion as the City Surveyor of Medford that the amendment to Land Development Code to remove public utility easements (PUE's) from the vacation process is not in the public's best interest for the following reasons.

When PUE's are created as they are in the City of Medford (COM), they are dedicated to the **Public of the City of Medford** opposed to a single entity or person. It is my understanding that the vacation process is the correct process to use to "vacate" the **interest of the public** in the easement. Our own standard documents for PUE's state "_____, Grantor, hereby **dedicate(s) to the public of the City of Medford, a perpetual easement, for facilities of public utilities,** described as follows:.....". Furthermore the standard language used in declarations on land division plats use language similar to

length of all lines are plainly set forth, and that this is a correct representation of the subdivision. The City of Medford Urban Renewal Agency, **dedicates to the public for public use** the street and those areas shown as "Area to be **dedicated to the city for public street right of way, together with those easements labeled as public utility easements, storm drainage easement and sewer easement, over across and through those strips of land as shown hereon.** The City of Medford Urban Renewal Agency does hereby designate said subdivision as SOUTH GATEWAY CENTER SUBDIVISION to the City of Medford.

depicted hereon, and hereby designates this subdivision as 10TH FAIRMAT OFFICE PARK. Declarant hereby dedicates that area depicted as a 15.00 foot wide Public Utility Easement, a 6.00 foot wide Storm Drain Easement across a portion of Lots 4 and 5, a 10.00 foot wide Storm Drain Easement across a portion of Lot 5, a 10.00 foot wide Sanitary Sewer Easement, and a 15.00 foot wide Sanitary Sewer Easement across a portion of the Common Area, all for public use and as depicted hereon. Declarant hereby creates: a 5.00 foot wide Private Storm Drain Easement across a portion of Lot 3,

These above two snippets are from two subdivisions within the city as declared by the owner(s) in the declarations. First is South Gateway Center Subdivision (sn #13449) and second is 10th Fairway Office Park Subdivision (sn #22741).

It is my understanding that the City acts as a type of “trustee” for the public on lands dedicated for public use and the proper vehicle to withdraw the public from that use is a vacation process as provided in ORS 271 and “replatting” process per ORS 92. Opposed to the owner granting a utility easement (Sewer, Storm Drain, electrical, gas....) to the COM (or some other entity) for a specific use. In which the two parties (property owner and entity (city, Gas Company, Power Company)) can extinguish said easement with a quitclaim deed or another type of extinguishment document because there is no public interest.

It should also be mentioned that when an easement is dedicated to the public on a land division plat, ORS 271 calls for the county surveyor to be notified as part of the vacation process so that he can note the vacation on the surveyor’s office “exact copy” of the recorded plat therefore being further public notice that something shown on the original plat has changed e.g. vacated public utility easement. I see no mention of this being within the amended part of the code which could have real consequences to the public and the public utility companies. For instance, a PUE is vacated and not noted on the exact copy in the county surveyor’s office. A few years go by and some entity, say the gas company pulls a copy of the land division plat that shows a PUE along X Street so they place a gas line in the platted PUE with no understanding that the said PUE has been vacated causing issues with the adjoining property owner and the entity.

To minimize the vacation process by what is proposed in this code amendment could expose the city to unwanted liability and would not serve to protect the public safety, health and welfare in my opinion as a Land Surveyor.

While the code is open I have the following recommendations for changes:

- In the first line of 10.228(A) the word “ownership” is incorrect. Unless the city owns the underlying fee title to the property or the city received the dedication in “fee” the city does not have “ownership” only a right to use the property for specific purpose (Road, Park, Pedestrian walk way) according Black’s Law dictionary and many other reference materials.
- In 10.228(E)(2) “in electronic form per” Should be removed because the language is obsolete according to the city recorder and troublesome since licensed land surveyors are required to stamp their work.
- In 10.228(E) (2) I would suggest that language be added to the legal description to require an exhibit map attached thereto depicting the area to be vacated. This is in accordance with ORS 93.310 and the rules for construing legal descriptions. Section (6) states “When the description refers to a map, and that reference is inconsistent with other particulars, it controls them, if it appears that the parties acted with reference to the map; otherwise the map is subordinate to other definite and ascertained particulars.” It has been my experience that many maps of convenience such as vicinity maps and GIS maps seem to accompany vacations during the public process and even get recorded with vacations. If the legal description had an exhibit map attached it would be more assured that the parties acted upon a legal map instead of a map of convenience.

It should also be noted that language in the "Proposed Text" states that there is "New text" and "~~Deleted Text~~" I noticed that text has been omitted from the code as it now exists. Specifically in 10.228(A) "...of removing unnecessary plat designations..." should sayof removing unnecessary *easements or* plat designations...

In closing I believe that the vacation process and replatting has been and is the proper procedure for removing the public's interest in real property and to make changes to this code section would not be in the public's best interest.

Sincerely, Jon

Jon Proud, L.S.

City Surveyor

200 S. Ivy Street

Medford, Or. 97501

jon.proud@ci.medford.or.us

p.541-774-2126

f.541-774-2552

From: Jodi K. Cope

Sent: Friday, December 13, 2019 3:54 PM

To: Jon M. Proud

Cc: Douglas E. Burroughs

Subject: DCA-19-013 PUE Vacation

Hi Jon,

Did you get routed, and have any comments on the code amendment for PUE Vacations?

Thanks,

[Jodi K Cope](#) | *Engineering Technician*
City of Medford, Oregon | *Public Works | Engineering*
Development Services
200 S. Ivy Street, Medford, OR 97501
Ph: 541-774-2137 | Ph: 541-774-2100
[Website](#) | [Facebook](#) | [Twitter](#)

Exhibit G

Jackson County Surveyor, Scott Fein, Comment

From: [Scott Fein](#)
To: [Kyle W. Kearns](#)
Cc: [Jon M. Proud](#)
Subject: DCA-19-013 PUBLIC UTILITY EASEMENT VACATION
Date: Monday, December 16, 2019 11:58:04 AM

Mr. Kearns,

Hope this finds you well. This email is the official comment in response to request for comment in relation to code amendments surrounding the vacations of public utility easements in the city of Medford.

Specifically section 10.228 of the code.

The interest of the County Surveyors Office pertains to the requirements for posting vacations on plats which the County Surveyor is required to do under ORS 271.230.

Many of these public utility easements defined under ORS 92.012(19) which are dedicated to the public and held in public trust by the city of Medford at time of platting in accordance with ORS 92.175.

Much of the physical infrastructure inside of said easements are part of the public utility commission. These easements are frequently for sewer, water, communications, and gas lines. Without having Land Surveyor certified as-built surveys of all of the underground utilities combined with Medford and failing to provided public notice through standard vacation proceedings outlined in ORS 271; there is substantial risk that utilities whose true location is unknown and/or are not a part of the "franchise utilities" licensed by the city that active infrastructure which serves residences and business will then exist without an easement by failing to hold the appropriate public hearings. It appears the city is attempting to define public utility easements as not being a "other public place" in the context of ORS 271 to avoid going through the seemingly burdensome vacation process. This appears to conflict with the city's acceptance on plats under ORS 92.175. I would encourage the city to not do this within the context or ORS 271.230 to ensure that a vacation order is issued by the governing body (City Council) to ensure that we are properly noticed to be able to post said vacations on plats.

Keeping accurate and thorough land records is essential for cohabitation and to avoid costly disputes.

I feel that it would be a disservice to not follow the required vacation process outlined in ORS 271 for

what is created as a public dedication for public utilities under ORS 92.
Please feel free to contact me with any questions.

Scott Fein, PLS, CWRE, CFEDS

County Surveyor

Jackson County Surveyor's
Office

feinsd@jacksoncounty.org

[541-774-6190](tel:541-774-6190)

www.co.jackson.or.us/surveyor

Exhibit H

Avista Corporation Comment

From: [Vincent, Steve](#)
To: [Kyle W. Kearns](#)
Subject: FW: Vacationing of Public Utility Easements
Date: Friday, December 6, 2019 9:58:22 AM
Attachments: [\[Untitled\].pdf](#)

<EXTERNAL EMAIL **Be cautious with links and attachments**>

Kyle,

In reviewing the draft amendments to 10.228 Vacation of Public Right-of-Way, at Avista we'd like to make one additional request that you may want to add to the of (F)(1). Would you consider adding that copy of the recorded document be provided to franchise utilities licensed by the City? While (F)(1)(b) already requires notification of a proposed PUE vacation, in some circumstances we may need to know that a vacation was approved so as to have a record of it where natural gas facilities may exist.

Thank you.

Steve Vincent, Oregon Regional Business
Manager 580 Business Park Dr, Medford,
OR 97504
Ph 541-858-4773 Cell 541-944-8992
www.myavista.com

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

From: McFadden, David
Sent: Friday, December 6, 2019 6:56 AM
To: Vincent, Steve <Steve.Vincent@avistacorp.com>; Hesler, Greg
<Greg.Hesler@avistacorp.com> Subject: Vacationing of Public Utility Easements

Mr. Vincent and Mr. Hess:

I received this notice from the City of Medford Oregon this morning.

While I see no particular concern for Avista, I thought you should see this proposal.

To my knowledge, and maybe our Real Estate would know more, but Avista do not currently track the creation, occupancy of utilities in specific PUEs, vacation of such PUEs, nor does Avista map system show Public or Private Utility Easements in our AFM/GIS system.

However, if they pass this amendment to their Land Development Code, it might be nice to ask the City to send Avista and other utilities a copy of any recorded document concerning such Vacations.

David
McFadden
Avista
Medford

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Exhibit I

Planning Commission Hearing Minutes – June 25, 2020

June 25, 2020

5:30 P.M.

Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon

The regular meeting of the Planning Commission was called to order at 5:30 PM in the Medford City Hall, Council Chambers, 411 West 8th Street, Medford, Oregon on the above date with the following members and staff in attendance:

Commissioners Present

Mark McKechnie, Chair
Joe Foley, Vice Chair
David Culbertson
David Jordan
Bill Mansfield
David McFadden
E.J. McManus
Jared Pulver
Jeff Thomas

Staff Present

Matt Brinkley, Planning Director
Kelly Evans, Assistant Planning Director
Carla Paladino, Principal Planner
Eric Mitton, Deputy City Attorney
Alex Georgevitch, City Engineer
Greg Kleinberg, Fire Marshal
Terri Richards, Recording Secretary
Dustin Severs, Planner III
Steffen Roennfeldt, Planner III
Seth Adams, Planner III

10. **Roll Call**

20. **Consent Calendar / Written Communications.** None.

30. **Approval or Correction of the Minutes from June 11, 2020 hearing**

30.1 The minutes for June 11, 2020, were approved as submitted.

40. **Oral Requests and Communications from the Public.** None.

Eric Mitton, Deputy City Attorney read the Quasi-Judicial statement

* * *

50.5 DCA-19-013 An amendment to portions of Chapter 10, Article II, to revise the City's Vacation land use review standards to omit Public Utility Easements (PUEs) from review at a public hearing, making them a Type I review. Applicant: City of Medford; Planner: Kyle Kearns.

Carla Angeli Paladino, Principal Planner reported that the Development Code Amendment approval criteria can be found in the Medford Land Development Code Section 10.218. The applicable criteria were addressed in the staff report and hard copies are available at the entrance of Council Chambers for those in attendance. Ms. Paladino gave a staff report.

The public hearing was opened.

Mr. Mitton reported that he wanted to address page 172 of the agenda packet. Mr. Jon Proud, City Surveyor stated that this proposal would expose the City to liability and would not protect the public safety, health and welfare. Mr. Mitton believes that the proposed plan is compliant and consistent with State law. There is a policy decision to be weighed by policy makers which is not his job. The current method is extremely cautious and conservative way that emphasizes making sure there is any possibility that there could be notice slipped through the cracks by having this lengthy Vacation process.

The public hearing was closed.

Motion: The Planning Commission, based on the findings and conclusions that all of the applicable criteria are either satisfied or not applicable, forwards a favorable recommendation for approval of DCA-19-013 to the City Council per the staff report dated June 18, 2020, including Exhibits A through H.

Moved by: Vice Chair Foley

Seconded by: Commissioner McFadden

Roll Call Vote: Motion passed, 9-0-0.

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Submitted by:



Terri L. Richards
Recording Secretary



Mark McKechnie
Planning Commission Chair

Approved: July 9, 2020



AGENDA ITEM COMMENTARY

DEPARTMENT: City Manager’s Office
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STAFF CONTACT: Brian Sjothun – City Manager

AGENDA SECTION: Council Business
MEETING DATE: August 6, 2020

SUMMARY AND BACKGROUND

Council is requested to consider for approval the proposed City of Medford priorities for submittal to the League of Oregon Cities regarding legislative priorities for the 2021 State Legislative Session.

ANALYSIS

The League of Oregon Cities (LOC), through their legislative lobbying staff/committee, have developed a list of considerations for member cities to prioritize for the 2021 State Legislative session. Each city was asked to submit their top four priorities for the next session.

The list was reviewed by contracted lobbyist Cindy Robert along with the Oregon Legislative Liaisons; Kevin Stine, Mike Zarosinski, Tim D’Alessandro and Clay Bearnson. A number of items were removed for consideration as those were either approved in the most recent emergency session or are not moving forward as a result of state funding issues. Staff submitted the remaining 20 issues to the Mayor and council members for prioritization and the results were as follows:

Item	Weighted Score	Rank
Mental Health Service Delivery	37	1
Housing and Services Investments	27	2
Property Tax Reform	18	3
Low-Income Energy Efficiency and Affordability Programs	14	4

If approved, these results will be immediately sent to LOC staff for inclusion into their state-wide survey of members.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The complete financial and or resources impacts are unknown at this time. However, staff is requesting Council consideration in making specific funding requests for projects that align with goals. These projects will be discussed at the August 13 Study Session.

TIMING ISSUES

The League of Oregon Cities has requested that cities submit their top four legislative priorities by August 7, 2020.

COUNCIL OPTIONS

- Approve the 2021 legislative priorities as presented.
- Modify the 2021 legislative priorities and approve.



STAFF RECOMMENDATION

Staff recommends approval of the 2021 League of Oregon Cities legislative priorities.

SUGGESTED MOTION

Based on the discussion and direction provided by Council to staff.

EXHIBITS

Outcomes of priorities based on Council submissions

2021 Session Legislation

	Weighted Scores*	Top 4 in Order of Priority
A. Beer and Cider Tax Increase	3	
B. Building (Reach) Code-Energy Efficiency Local Option		
C. COVID-19 Economic Recovery Investments	10	
D. Green Energy/Renewables-Expanded Local Option		
E. Housing and Services Investment	27	2
F. Infrastructure Financing and Resilience	5	
G. Local Climate Action Planning Resources		
H. Local Energy Generation Project Support		
I. Local Speed Setting Authority	5	
J. Long Term Transportation Infrastructure Funding	3	
K. Low-Income Energy Efficiency and Affordability Programs	14	4
L. Marijuana Tax Local Rate Limitation Increase		
M. Mental Health Service Delivery	37	1
N. New Mobility Services (Transportation Network Governance)		
O. Property Tax Reform	18	3
P. Reducing Wastewater Impacts from Wipes and Other "Non-Flushables"		
Q. Right-of-way/Franchise Fees Authority Preservation	3	
R. State Highway Funds Formula		
S. Tort Liability Reform		
T. Water Utility Rate and Fund Assistance		

1=10 pts., 2=7pts., 3=5 pts., 4=3 pts.