



CITY OF CENTRAL POINT

Oregon

City Council Meeting Agenda Thursday, August 12, 2021

Mayor
Hank Williams

Ward I
Neil Olsen

Ward II
Kelley Johnson

Ward III
Melody Thueson

Ward IV
Tanea Browning

At Large
Rob Hernandez

At Large
Michael Parsons

Next Res (1679) Ord (2080)

- I. **REGULAR MEETING CALLED TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL**
- IV. **SPECIAL PRESENTATIONS**
- V. **PUBLIC COMMENTS**

Public comment is for non-agenda items. If you are here to make comments on a specific agenda item, you must speak at that time. Please limit your remarks to 3 minutes per individual, 5 minutes per group, with a maximum of 20 minutes per meeting being allotted for public comments. The council may ask questions but may take no action during the public comment section of the meeting, except to direct staff to prepare a report or place an item on a future agenda. Complaints against specific City employees should be resolved through the City's Personnel Complaint procedure. The right to address the Council does not exempt the speaker from any potential liability for defamation.

- VI. **CONSENT AGENDA**
- VII. **ITEMS REMOVED FROM CONSENT AGENDA**
- VIII. **PUBLIC HEARING**

Public comments will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony.

- A. Public Hearing and First Reading of an Ordinance Vacating Approximately 808 Square Feet of Undeveloped Cook Lane Right-of-Way Located Adjacent to Property Identified on the Jackson County Assessor's Map as 37S 2W 10BC Tax Lots 2200 and 2301 (Holtey)

IX. **ORDINANCES, AND RESOLUTIONS**

- A. Ordinance No. _____, Ordinance Amending in Part Central Point Municipal Code Chapter 10.14 Adding Police Department Authority (Dreyer)
- B. Resolution No. _____, Approving the Rogue Disposal and Recycling, Inc, Twenty Fifth Year Performance Audit, Fifth Anniversary Rate Adjustment, Amendment to Annual Adjustment and Fire-Year Franchise Extension Pursuant to Article 7 of the Solid Waste Agreement (Clayton)
- C. Resolution No. _____, Regarding a Lease Purchase Agreement for the Purpose of Financing Public Works Equipment (Weber)
- D. Resolution No. _____, Exercising the Power of Eminent Domain for the South Haskell Street Extension (Samitore)

X. BUSINESS

- A. Citizens Advisory Committee Appointment (Clayton)
- B. Planning Commission Report for the August 3, 2021 meeting. (Holtey)

XI. MAYOR'S REPORT

XII. CITY MANAGER'S REPORT

XIII. COUNCIL REPORTS

XIV. DEPARTMENT REPORTS

XV. EXECUTIVE SESSION

The City Council will adjourn to executive session under the provisions of ORS 192.660. Under the provisions of the Oregon Public Meetings Law, the proceedings of an executive session are not for publication or broadcast.

XVI. ADJOURNMENT

Individuals needing special accommodations such as sign language, foreign language interpreters or equipment for the hearing impaired must request such services at least 72 hours prior to the City Council meeting. To make your request, please contact the City Recorder at 541-423-1026 (voice), or by e-mail to Deanna.casey@centralpointoregon.gov.

Si necesita traductor en español o servicios de discapacidades (ADA) para asistir a una junta publica de la ciudad por favor llame con 72 horas de anticipación al 541-664-3321 ext. 201

Comment: By Resolution No. 1677 the City initiated proceedings to consider the vacation as presented in Attachment “A.”

- No street area will be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property unless the city governing body provides for paying damages.

Comment: There is no evidence that the street vacation will have any substantial impact on the market value of the adjoining properties other than to facilitate residential development. Notwithstanding, the abutting property owners by requesting the vacation as provided in Attachment “B”, provided written consent.

- No street area will be vacated if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing.

Comment: The City provided legal notice of the proposed vacation to all property owners within the affected area as determined by the calculations in ORS 271.080 and provided published notice in the Mail Tribune on July 29, 2021 and August 5, 2021 as required. Notice was also posted on the site. At this time, no written objections have been received. At the conclusion of the public hearing, the City Council will determine if written objections are received and if the objections represent a majority of the property owners in the affected area. Legal notices are provided in Attachment “C.”

ORS 271.130(2) addresses joining two intersecting streets in one proceeding, which does not apply in this case.

ORS 271.130(3). No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

Comment: The owner of the properties abutting the area to be vacated has been notified of the requirement to certify that all taxes and liens are paid. As provided in Attachment A, the ordinance approving the vacation will not take effect until 30-days after the second reading and a certificate is received.

ORS 271.130(4) addresses appeals for property owners affected by the order of vacation or the order awarding damages.

Comment: As demonstrated herein, there are no damages to be awarded based on consent of abutting property owners because they have consented to the vacation in writing.

COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

City Council set forth five (5) strategic priorities in the 2040 strategic plan. The following apply to the proposed vacation:

Community Investment, Goal 6 – Meet the housing needs of Central Point residents and businesses.

Vacating the unneeded right-of-way satisfies a condition of approval to plat 12 residential lots. Given current demand for housing and lack of supply, the vacation is consistent with this goal.

Vibrant Economy, Goal 1 – Manage growth to provide a timely and orderly provision of facilities and services.

Vacating the unneeded right-of-way will allow construction of the necessary street and all associated public facilities in a timely and orderly manner.

STAFF RECOMMENDATION:

Conduct the public hearing and forward the ordinance to a second reading with or without changes.

RECOMMENDED MOTION:

I move to forward the ordinance vacating a portion of undeveloped Cook Lane right-of-way to a second reading.

ATTACHMENTS:

1. Written Request/Consent to Vacate
2. Legal Notices
3. Ordinance Cook ROW Vacation

FARBER CONSULTING
PO BOX 5286
CENTRAL POINT, OREGON 97502
541-664-5599

June 21, 2021

City of Central Point
City Council
140 South 3rd Street
Central Point Oregon 97502

Re: Request by Council Motion a Vacation of a portion of Cook Lane.

Honorable Councilor's:

As agent for Twin Creeks Development Co, LLC, we hereby request the Council by the authority granted by the Oregon Revised Statutes Chapter 270.130 initiate the vacation of a portion of Cook Lane. This request is by 100 percent of the owners of the affected properties. The portion requested to be vacated is no longer needed because of the Planning Commission approval of Mayberry Place which will provide a city street improved to full City Standards providing access to 12 Lots. Cook Lane is presently an undeveloped right of way.

Respectfully,

Herbert A Farber, Agent

Attachment: Written Request/Consent to Vacate (1445 : Cook Lane Right-of-Way Vacation)

NOTICE OF STREET VACATION

Meeting Date: August 12, 2021
Meeting Time: 7:00 p.m.
Place: City Council Chambers
 140 S. Third Street,
 Central Point, OR 97502

NATURE OF MEETING: Beginning at the above time and place, the City Council will hold a public hearing to receive written testimony, objections or remonstrances regarding the adoption of an ordinance vacating a portion of undeveloped street right-of-way, known as Cook Lane, located east of Grant Road. The adjoining properties are identified on the Jackson County Assessor's Map as 37S 2W 10BC TL 2200 and 2301, which are owned by W.L. Moore Construction, Inc. If the ordinance is approved, the City of Central Point will vacate approximately 808 square feet of the right-of-way.

The City Council initiated the proceedings for the vacation of the above named street pursuant to ORS 271.130 at the regular City Council meeting on July 8, 2021.

CRITERIA FOR DECISION: The requirements for vacation of a public street are set forth in ORS 271.130 et. seq. The proposed vacation is also reviewed in accordance with Chapter 12.28 of the Central Point Municipal Code.

PUBLIC COMMENT:

1. Any person interested in commenting on the proposed street/alley vacation may file written comments, objections, or remonstrances with the City Recording Officer prior to the time of the public hearing.
2. Written comments may be filed at Central Point City Hall, 140 S. Third Street, Central Point, OR 97502
3. Issues which may provide the basis for a decision on this matter shall be raised prior to the expiration of the comment period noted above. Any testimony and written comments about the right-of-way vacation described above will need to be related to the proposal and should be stated clearly to the City Council.
4. Copies of all evidence relied upon by the applicant are available for public review at City Hall, 140 South Third Street, Central Point, Oregon. **The City File Number is: VAC-21001.** Copies of the same are available at 25 cents per page.
5. For additional information, the public may contact Stephanie Holtey at 541-423-1031 or stephanie.holtey@centralpointoregon.gov

SUMMARY OF PROCEDURE: At the public hearing, the City Council will review all written testimony, objections or remonstrances to the proposed street vacation. At the conclusion of the public hearing, the City Council may adopt, modify or reject the ordinance vacating the undeveloped right-of-way.



Attachment: Legal Notices (1445 : Cook Lane Right-of-Way Vacation)

CAKKA JOHN W/CAKKA ANN E
872 MENDOLIA WAY
CENTRAL POINT, OR 97502

HAGA GREG/VALARIE ANN
873 MENDOLIA WAY
CENTRAL POINT, OR 97502

TUERS SCOTT T/KRISTEN D
881 MENDOLIA WAY
CENTRAL POINT, OR 97502

SWENSON DAVID R/RUTH M
864 MENDOLIA WAY
CENTRAL POINT, OR 97502

FELLOWS BOB
2950 PHILLIPS WAY
CENTRAL POINT, OR 97502

HOPKINS BRAD/JULIE
889 MENDOLIA WAY
CENTRAL POINT, OR 97502

GARNICA FRED S/ROBIN D
877 MENDOLIA WAY
CENTRAL POINT, OR 97502

HANNA-BELL JUDY D/BELL EUGENE
853 MENDOLIA WAY
CENTRAL POINT, OR 97502

JOHNSON LYLE D TRUSTEE ET A
17505 HWY 62
EAGLE POINT, OR 97524

MACLAUHLAN RYAN SHANE/KRISTI
885 MENDOLIA WAY
CENTRAL POINT, OR 97502

LUDWIG MAE ANN TRUSTEE
4165 JACKDAW ST
SAN DIEGO, CA 92103

GOFF RYAN/ZSANINE
3610 GRANT RD
CENTRAL POINT, OR 97502

WL MOORE CONSTRUCTION INC
PO BOX 3577
CENTRAL POINT, OR 97502

SCHULTZ RICHARD J/SHARI E
880 MENDOLIA WAY
CENTRAL POINT, OR 97502

JUAREZ GODOFREDO/JEREMIAS
2401 BLUE JAY LN
CENTRAL POINT, OR 97502

MISENER MARK J TRUSTEE ET AL
3590 GRANT RD
CENTRAL POINT, OR 97502

HUFFMAN CHET/CINDY
C/O WHITFIELD & COMPANY, PC
23801 CALABASAS RD #1013
CALABASAS, CA 91302

BARATTA LETICIA TRUSTEE ET AL
164-29 77TH AVE
FRESH MEADOWS, NY 11366

W L MOORE CONSTRUCTION INC
PO BOX 3577
CENTRAL POINT, OR 97502

YOUNG MARTIN K
861 MENDOLIA WAY
CENTRAL POINT, OR 97502

MONTES ISAIAS/MARIANA
3601 GRANT RD
CENTRAL POINT, OR 97502

BECH BARBARA A
WALKER MAURICE N
865 MENDOLIA WAY
CENTRAL POINT, OR 97502

BRUSH ROY A TRUSTEE ET AL
2450 ROBIN LN
CENTRAL POINT, OR 97502

MARRON JAMES E
869 MENDOLIA WAY
CENTRAL POINT, OR 97502

BURNETT MICHAEL E/ROBIN E
868 MENDOLIA WAY
CENTRAL POINT, OR 97502

ORDINANCE No. _____

AN ORDINANCE VACATING APPROXIMATELY 808 SQUARE FEET OF UNDEVELOPED COOK LANE RIGHT-OF-WAY LOCATED ADJACENT TO PROPERTY IDENTIFIED ON THE JACKSON COUNTY ASSESSOR’S MAP AS 37S 2W 10BC TAX LOTS 2200 AND 2301

Applicant: W.L. Moore Construction, Inc.

Recitals:

- A. On November 3, 2020, the Central Point Planning Commission approved a tentative subdivision plan (Resolution No. 882) to create a 12-lot residential subdivision served by a public street that incorporates most of the undeveloped Cook Lane right-of-way abutting property identified as 37S2W10BC Tax Lots 2200 and 2301. In rendering this decision the City determined that a portion of the Cook Lane right-of-way is not needed for public access.
- B. In accordance with CPMC Chapter 12.28 and Oregon Revised Statute (ORS) Chapter 271.130, the Central Point City Council considered a request to initiate proceedings to vacate the unneeded portion of Cook Lane right-of-way by the owner of Tax Lots 2200 and 2301, and approved Resolution No. 1677 fixing a time for a public hearing to consider the vacation.
- C. On August 12, 2021 the City Council held duly noticed public hearing in accordance with ORS 271.110 to consider the vacation and receive public testimony.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

Section 1. Based upon all the information received, the City Council adopts the Staff Reports, Findings of Fact and evidence which are incorporated herein by reference; determines that the public interest is not prejudiced; that changing community conditions and needs justify the vacation and hereby adopts this ordinance to vacate the undeveloped Cook Lane right of way as described in Exhibits 1-3 attached hereto.

Section 2. The City Manager is directed to conduct post vacation action defined in ORS 271.150 which includes filing for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of this ordinance shall also be filed with the county assessor and county surveyor.

Section 3. Effective date. The Central Point City Charter states than an ordinance enacted by the council shall take effect on the thirtieth day after its enactments. The vacation is not effective until thirty days after the second reading and certification has been received from the County Assessor that all City taxes and liens for the land to be vacated have been paid.

Section 4. The City Recorder is authorized to correct any cross-references and any typographical errors.

Passed by the Council and signed by me in authentication of its passage this ____ day of _____, 2021.

Mayor Hank Williams

ATTEST:

City Recorder

Attachment: Ordinance Cook ROW Vacation (1445 : Cook Lane Right-of-Way Vacation)

APPLICATION MAP

MAYBERRY PLACE
A SUBDIVISION
A REPLAT OF A PORTION OF COOK
LANE and PUE.

LOCATED IN THE NORTHWEST QUARTER
OF SECTION 10, TOWNSHIP 37 SOUTH
RANGE 2 WEST OF THE WILLAMETTE
MERIDIAN, CITY OF CENTRAL POINT,
JACKSON COUNTY, OREGON.

APPLICANT/OWNER:
K.L. MOORE CONSTRUCTION INC.
PO BOX 3577
CENTRAL POINT, OR 97502

PLANNER:
HERB FARRER
FARRER CONSULTING
1514 N. 50TH
CENTRAL POINT, OR 97502

LAND SURVEYOR:
FRED A. FRANTZ, PLS
TERRASURVEY, INC.
274 FOURTH STREET
ASHLAND, OREGON 97520
C.E.D. 482-6474

SITE:
3684 GRANT ROAD
CENTRAL POINT, OR 97502
SUBDIVISION NO. 37-24-108C-2200

ZONING: RR-2.5

NOTES:
MAYBERRY LANE WILL BE A MINOR RESIDENTIAL LOCAL STREET
WITH PARKING ON ONE SIDE PER STANDARD DRAWING ST-10.
STREET GRADES WILL BE 1 TO 5%.



EXISTING TREES TO REMAIN

- 18" CONCRETE SEWER LINE IN GRANT ROAD.
- 18" STORM DRAIN LINE AT NORTH END OF STORM DRAIN EASEMENT ON BLUE HEARON DRIVE.
- 12" WATER LINE STUBBED TO THE NORTH LINE OF THIS PROJECT FROM FROM BLUE HEARON DRIVE.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

FRED A. FRANTZ
JULY 12, 2004
REG. NO. 18317

Renewal 18-31-21

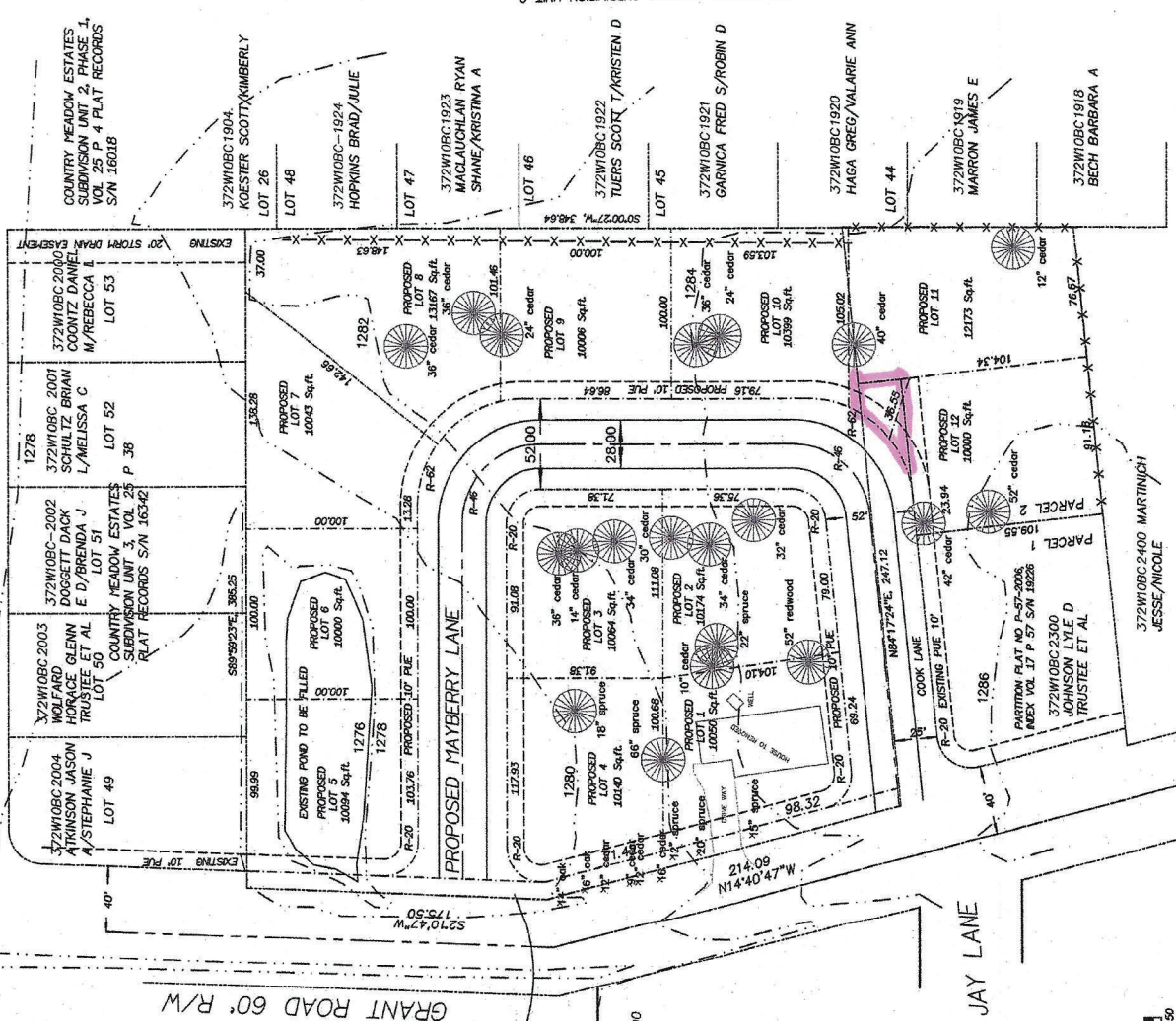
TERRASURVEY, INC.
PROFESSIONAL LAND SURVEYORS
274 FOURTH STREET
ASHLAND, OREGON 97520
(541) 482-6474
terran@blsp.net

JOB NO. 1267-19

BLUE HERON DRIVE 52' R/W

GRANT ROAD 60' R/W

BLUE JAY LANE



COUNTRY MEADOW ESTATES SUBDIVISION UNIT 2
PHASE 2, VOL 27 P 8 PLAT RECORDS S/N 16803

COUNTRY MEADOW ESTATES
SUBDIVISION UNIT 2, PHASE 1,
VOL 25 P 4 PLAT RECORDS
S/N 16018

372W10BC1904
COESTER SCOTT/KIMBERLY
LOT 26

372W10BC1924
HOPKINS BRAD/JULIE
LOT 47

372W10BC1923
MACLAUCHLAN RYAN
SHANE/ARISTINA A
LOT 46

372W10BC1922
TUERS SCOTT/KRISTEN D
LOT 45

372W10BC1921
GARNICA FRED S/ROBIN D
LOT 44

372W10BC1920
HAGA GREG/VALARIE ANN
LOT 43

372W10BC1919
MARRON JAMES E
LOT 42

372W10BC1918
BECH BARBARA A
LOT 41

372W10BC2040
COONTZ DANIEL
M/PREBECCA
LOT 53

372W10BC2001
SCHULTZ BRIAN
L/MELISSA C
LOT 52

372W10BC2002
DOGGETT DACK
E D/BRENDA J
LOT 51

372W10BC2003
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 50

372W10BC2004
ATKINSON JASON
A/STEPHANIE J
LOT 49

372W10BC2005
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 48

372W10BC2006
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 47

372W10BC2007
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 46

372W10BC2008
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 45

372W10BC2009
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 44

372W10BC2010
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 43

372W10BC2011
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 42

372W10BC2012
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 41

372W10BC2013
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 40

372W10BC2014
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 39

372W10BC2015
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 38

372W10BC2016
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 37

372W10BC2017
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 36

372W10BC2018
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 35

372W10BC2019
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 34

372W10BC2020
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 33

372W10BC2021
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 32

372W10BC2022
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 31

372W10BC2023
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 30

372W10BC2024
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 29

372W10BC2025
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 28

372W10BC2026
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 27

372W10BC2027
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 26

372W10BC2028
WOLFARD HORACE GLENN
TRUSTEE ET AL
LOT 25

DATE: 08-12-2020

SCALE: 1" = 50'
CONTIGUOUS INTERVAL IS 1 FOOT



37-24-108C TAX LOT 2200-2201

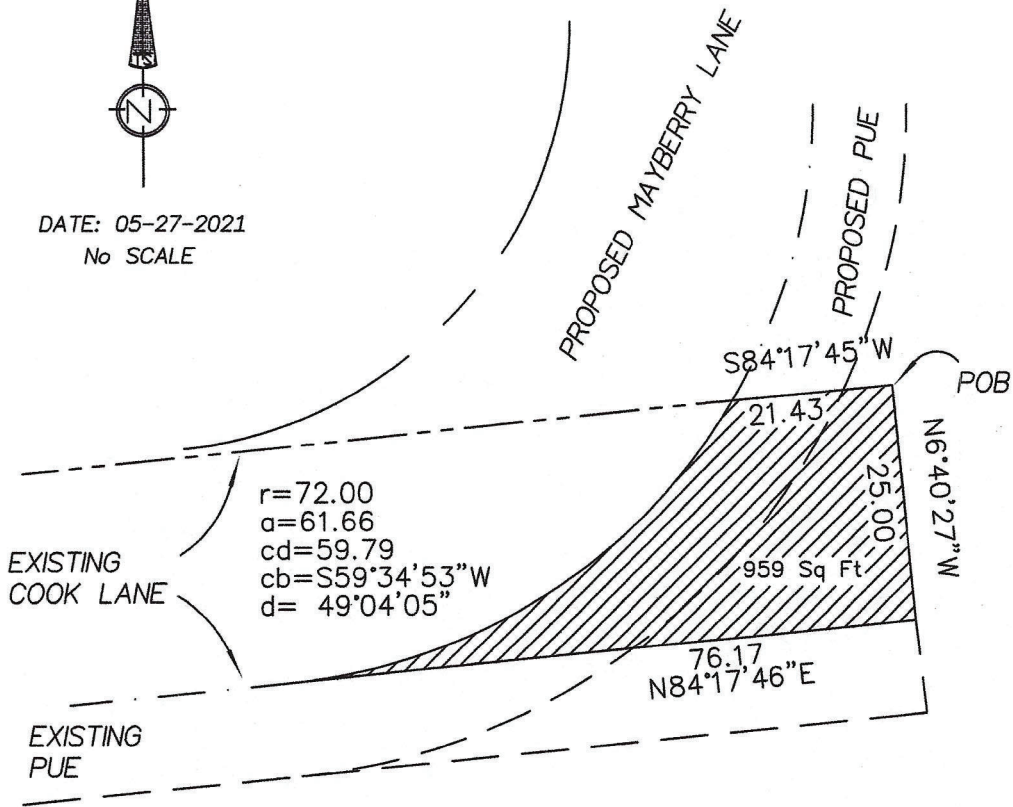
Attachment: Ordinance Cook ROW Vacation (1445 : Cook Lane Right-of-Way Vacation)

VACATION DETAIL

MAYBERRY PLACE
A SUBDIVISION
A REPLAT OF A PORTION OF COOK
LANE and PUE.



DATE: 05-27-2021
No SCALE



 AREA TO BE VACATED

TERRASURVEY, INC.

PROFESSIONAL LAND SURVEYORS

274 FOURTH STREET
ASHLAND, OREGON 97520

(541) 482-6474
terrain@bisp.net

JOB NO. 1267-19

REGISTERED
**PROFESSIONAL
LAND SURVEYOR**

OREGON
JULY 12, 2005
FRED A. FRANTZ
No. 50077

Renewal 12-31-21

37-2W-10BC TAX LOTS 2200-2301

Attachment: Ordinance Cook ROW Vacation (1445 : Cook Lane Right-of-Way Vacation)

Property Description
Cook Lane proposed vacation.
Mayberry Place subdivision

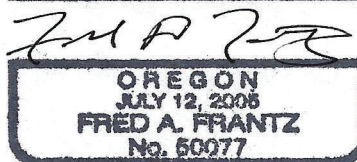
A portion of Cook Lane as described on Partition Plat No. P 57-2006 recorded in the Records of Jackson County, Oregon, Index Volume 17, Page 57, County Surveyor's File No 19226, more particularly described as follows:

Beginning at the northeast corner of Cook Lane as described on Partition Plat No. P 57-2006 recorded in the Records of Jackson County, Oregon, Index Volume 17, Page 57, County Surveyor's File No 19226; thence South 84°17'45" West, along the northerly line of said Lane for a distance of 21.43 feet; thence along a non-tangent curve to the right having a radius of 72.00 feet, a central angle of 49°04'05" for a distance of 61.66 feet with a long chord which bears South 59°34'53" West, 59.79 feet; thence North 84°17'46" East, along the southerly line of said Lane for a distance of 76.17 feet; thence North 06°40'27" West, along the easterly line of said Lane to the Point of Beginning.

Containing, more or less 959 square feet

Prepared by: Terrasurvey Inc.
274 4th Street
Ashland Oregon 97520

Phone: 541-482-6474



Renewal 12-31-21

Attachment: Ordinance Cook ROW Vacation (1445 : Cook Lane Right-of-Way Vacation)



City of Central Point **Staff Report to Council**

ISSUE SUMMARY

TO: City Council **DEPARTMENT:**
City Attorney

FROM: Sydnee Dreyer, City Attorney

MEETING DATE: August 12, 2021

SUBJECT: Ordinance No. _____, Ordinance Amending in Part Central Point Municipal Code Chapter 10.14 Adding Police Department Authority

ACTION REQUIRED: Motion
Ordinance 2nd Reading **RECOMMENDATION:**
Approval

BACKGROUND INFORMATION:

The City amended its municipal code to add Chapter 10.14 establishing preferential parking districts. As adopted, the Code provides that the Public Works Department will administer such program, issue permits and replacement permits, etc. Staff determined that the police department should be in charge of issuing such parking permits and ensuring compliance with the requirements of Chapter 10.14. The proposed revision would modify the authority for such management to the Police Department.

FINANCIAL ANALYSIS:

LEGAL ANALYSIS:

None

COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

STAFF RECOMMENDATION:

Approve recommended amendments.

RECOMMENDED MOTION:

I move to approve Ordinance No. _____, amending in part Central Point Municipal Code Chapter 10.14 adding Police Department authority.

ATTACHMENTS:

1. Ord Amending Ch 10.14 Police Department Authority

ORDINANCE NO. _____
AN ORDINANCE AMENDING IN PART CENTRAL POINT MUNICIPAL CODE
CHAPTER 10.14 ADDING POLICE DEPARTMENT AUTHORITY

RECITALS:

- A.** Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B.** Council adopted Ordinance No. 2074 amending Title 10 and adding Chapter 10.14 to the municipal code allowing for the creation of preferred parking districts to address parking concerns in designated areas of the City.
- C.** Ordinance 2074 established the process to create and operate a preferred parking district. As adopted, the Ordinance provided that the Public Works Department would be the primary department responsible for issuance of such permits.
- D.** Per discussion with staff, Council desires to amend Chapter 10.14 to establish primary authority for issuance of parking permits with the Central Point Police Department.
- E.** Words ~~lined through~~ are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 10.14 Parking Districts is amended in part as set forth below and incorporated herein by reference.

PREFERENTIAL PARKING DISTRICT

10.12.030 Issuance of permits.

- A.** Parking permits for preferential parking districts shall be issued by the **police department** ~~department of public works~~.
- B.** The number of permits to be issued to any one dwelling unit or to any merchant's business establishment shall be determined by the parking conditions within each district and set forth in the ordinance establishing the district.

C. Parking permits may be issued by the City only to the following persons: residents and merchants within the prescribed preferential parking district.

10.12.040 Posting signs in permit parking area.

Upon the adoption by the City Council of an ordinance designating a preferential parking district and the specified parking regulations applicable thereto, the department of public works shall cause appropriate signs to be erected in the district, indicating prominently thereon the parking limitation, period of the day for its application, and the fact that motor vehicles with valid permits shall be exempt therefrom.

10.12.070 Application for and duration of permit.

A. Except as otherwise provided in an Ordinance creating a preferential parking district, each parking permit issued by the **police department** ~~department of public works~~ shall be valid for one year. Permits may be renewed upon reapplication in the manner prescribed by the **police department** ~~department of public works~~.

B. Proof of residency/merchant location shall be required. Proof of residency/merchant location shall consist of two of the following:

1. Driver's license
2. Property Tax Bill or rental/lease agreement
3. Utility Bill (Cable TV, Telephone (landline only), Gas, Water, or Electric)
4. Company business card/letterhead.

10.12.100 Penalty provisions.

A. Unless exempted by provisions of this Chapter, no person shall stand or park a motor vehicle in any preferential parking district established pursuant to this part in violation of any parking restrictions established pursuant to this part. A violation of this section shall constitute an infraction, which shall be punishable by a fine, set by Resolution of Council.

B. No person shall falsely represent himself as eligible for a parking permit or furnish false information to the **police department** ~~department of public works~~ or other authorized city personnel in an application for a preferential parking permit.

C. No permit issued pursuant to this part shall thereafter be assigned, transferred or used for any consideration, monetary or otherwise. Violation of this subsection shall constitute an infraction and be punishable by a fine of \$100.00. Notwithstanding the foregoing, residents and merchants within a parking district may allow its/their visitors,

customers, or employees use of such permits while visiting or conducting business within the parking district.

D. No person shall copy, produce or create a facsimile or counterfeit parking permit, nor shall any person use or display a facsimile or counterfeit preferential parking district permit. Violation of this subsection shall constitute an infraction and be punishable by a fine of \$100.00.

E. Permit holders shall report to the **police department** ~~department of public works~~ or other authorized city personnel a lost, stolen, or missing permit within 10 days of loss, at which time that permit shall be cancelled and a new permit issued, at no cost.

F. Permits shall be returned to the **police department** ~~Department of Public Works~~ when the permit holder ceases to reside or exist in a preferential parking district.

G. No person shall display a permit cancelled pursuant to subsection E. Any such display on a vehicle shall be cause for ticketing and towing at the owner's expense in addition to the penalty set forth in subsection A of this section. Such cancelled permits shall be confiscated by the impounding authority.

10.12.110 Permit revocation procedure.

A. Any permittee who has violated the provisions of subsections B, C, D, E, F, or G of **Section 10.12.100** shall be subject to having the permit revoked, and shall be notified in writing of the permit revocation. Upon notification of such revocation, the permittee shall, within 15 working days of receipt of such notice, either surrender the permit to the **police department** ~~department of public works~~ or request, in writing, a hearing before the **police chief** ~~director of public works~~ or designated representative.

B. A timely request for a hearing made within 15 days of the receipt of the notice of revocation shall stay any revocation until five working days after the hearing decision is rendered.

C. A hearing shall be held by the **police chief** ~~director of public works~~ or designated representative, unless continued by agreement, within five working days of the request for a hearing. At the hearing, any person may present evidence or argument as to whether the permittee has violated any provisions of this part and whether the permit should be revoked.

D. A decision shall be rendered, by the **police chief** ~~director of public works~~ or designated representative, within five working days after the close of the hearing.

E. The ~~police chief director of public works~~ or designated representative may give oral notice of the decision at the close of the hearing or may send notice of the decision by mail to the permittee. The decision of the ~~police chief director of public works~~ or designated representative shall be final and conclusive.

F. If the revoked permit is not surrendered, the police department shall be notified so that appropriate enforcement action may be taken against the vehicle with the revoked permit the same as any other vehicle parking in the district without a permit.

SECTION 2. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Recitals A-C) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

SECTION 3. Effective Date. The Central Point City Charter states that an ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2021.

Mayor Hank Williams

ATTEST:

City Recorder



City of Central Point **Staff Report to Council**

ISSUE SUMMARY

TO:	City Council	DEPARTMENT: City Manager
FROM:	Chris Clayton, City Manager	
MEETING DATE:	August 12, 2021	
SUBJECT:	Resolution No. _____, Approving the Rogue Disposal and Recycling, Inc, Twenty Fifth Year Performance Audit, Fifth Anniversary Rate Adjustment, Amendment to Annual Adjustment and Fire-Year Franchise Extension Pursuant to Article 7 of the Solid Waste Agreement	
ACTION REQUIRED:	Resolution	RECOMMENDATION: Approval

BACKGROUND INFORMATION:

The Franchise Agreement between the City of Central Point and Rogue Disposal requires City Council approval of a 25-Year Performance Audit, Fifth Anniversary Rate Adjustment, and 5-Year Franchise Agreement Extension. The 25-year Performance Audit, Fifth Anniversary Rate Adjustment, and request for Franchise Agreement Extension must be reviewed by the City to ensure accuracy and that all the franchise agreement provisions are satisfied. Having reviewed Rogue Disposal & Recycling's proposed requests, the submitted calculations appear to be accurate/reasonable and the relevant conditions of the franchise agreement to be satisfied.

25-YEAR PERFORMANCE AUDIT REVIEW

Article 7 of the City's Solid Waste Franchise Agreement directs as follows: In connection with each Fifth Anniversary Rate Review conducted during the Term of this Agreement pursuant to Section 7.2, a Performance Audit of the Contractor shall be conducted as set forth below. Each Performance Review shall be commenced and complete during the same period of time that the related Fifth Anniversary Review is commenced and completed.

A. Nature and Scope. The Performance Audit shall:

(i) Be performed by a qualified certified public accounting or other nationally recognized solid waste industry consulting firm to be selected by the City and agreed to by the Contractor.

(ii) Be paid for by the Contractor (with the cost thereof constituting an Allowable Expense

for purposes of this Agreement).

(iii) Address all appropriate areas, including those areas requested or identified by the City as well as those listed below, and shall provide specific recommendations, as appropriate, for improvement in each area:

- (a) Compliance with the terms of this Agreement and applicable codes, laws, and regulations.
 - (b) Overall organizational structure and management systems and procedures.
 - (c) Staffing practices, including the deployment of management and supervisory personnel.
 - (d) Financial management practices, including the Contractor's billing and Collection system and its policies with regard to uncollected accounts.
 - (e) Personnel management practices, including compensation policies and the resolution of employee grievances.
 - (f) Employee job and safety training with respect to the management of Hazardous Waste to the extent necessary to enable Contractor's employees to make initial identifications of Hazardous Waste and to ensure that Hazardous Waste inadvertently collected by Contractor within the Franchise Area is properly handled and disposed.
 - (g) Procedures for receiving and resolving customer complaints and concerns, including damage to customer-owned containers and disappearance of container covers.
 - (h) Procedures for the acquisition, maintenance, and replacement of equipment; types of equipment; rationale for recent capital investments; and financing options.
 - (i) Utilization and management of facilities.
 - (j) Comparison with practices of solid waste collection companies in Oregon conducting operations and providing services similar to those of Contractor under this Agreement and operating in communities similar to the City and comparison with accepted industry standards in the State of Oregon.
 - (k) An analysis of the financial and rate impact of any recommendations made by the consultant conducting the Performance Audit. Contractor is expected to cooperate fully with the Performance Audit, and provide all operational, financial and other information deemed reasonable and necessary by the City for purposes of conducting the Performance Audit. Contractor's failure to cooperate or track or provide all information necessary to conduct the Performance Audit shall be considered an event of default. The results of the Performance Audit shall be compiled in a report prepared by the consulting firm selected to conduct the Performance Audit, which report shall be delivered in writing simultaneously to both the City and the Contractor.
-

FIFTH ANNIVERSARY RATE REVIEW:

Article 7 of the City's Solid Waste Franchise Agreement directs as follows:

Unless otherwise agreed to in writing by the City and the Contractor, a rate review (herein called a "Fifth Anniversary Rate Review") shall be conducted by the City and Contractor so as to make any necessary adjustment to the Approved Service Rate Schedule effective as of each Fifth Anniversary. The Contractor shall provide to the City the information needed for a Fifth Anniversary Rate Review not less than 135 days prior to the related Fifth Anniversary. Within 45 days of the date upon which the Contractor provides the City with the information needed for the Fifth Anniversary Rate Review, the City shall notify the Contractor in writing as to whether the City accepts such information as complete or specifying any respect in which the City deems such information incomplete or deficient. Failure of the City to so notify the Contractor within such 45-day period that the information is incomplete or deficient shall constitute acceptance by the City of such information as complete, which deemed acceptance shall be effective as of such 45th day. The City staff shall review such information and complete all its deliberations in connection therewith within 45 days from the date of acceptance or deemed acceptance by the City of the information provided by the Contractor. Not later than the next regularly scheduled City Council meeting following the end of such 45-day period, the City staff shall place on the City Council meeting agenda a presentation of its recommendations for consideration by City Council, and the City Council shall thereafter act without undue delay to approve or disapprove any proposed adjustment to the Approved Service Rate Schedule. Upon the request of the City or the Contractor, the foregoing time periods may be extended for such additional period of time as the parties shall mutually agree.

A rate review (herein called a "Requested Rate Review") shall be conducted by the City and the Contractor at any time at the written request of either party (the date of any such written request being herein called the "Request Date"). The Contractor shall provide to the City the information needed for a Requested Rate Review within 90 days following the Request Date. Within 45 days of the date upon which the Contractor provides the City with the information needed for the Requested Rate Review, the City shall notify the Contractor in writing as to whether the City accepts such information as complete or specifying any respect in which the City deems such information incomplete or deficient. Failure of the City to so notify the Contractor within such 45-day period that the information is incomplete or deficient shall constitute acceptance by the City of such information as complete, which deemed acceptance shall be effective as of such 45th day. The City staff shall review such information and complete all its deliberations in connection therewith within 45 days from the date of acceptance or deemed acceptance by the City of the information provided by the Contractor. Not later than the next regularly scheduled City Council meeting following the end of such 45-day period, the City staff shall place on the City Council meeting agenda a presentation of its recommendations for consideration by City Council, and the City Council shall thereafter act without undue delay to approve or disapprove any proposed adjustment to the Approved Service Rate Schedule. Upon the request of the City or the Contractor, the foregoing time periods may be extended for such additional period of time as the parties shall mutually agree.

Information Required for Rate Reviews. In connection with the Initial Rate Review and Fifth

Anniversary Rate Review, and each Requested Rate Review, each of the following items shall be provided by Contractor to the City at no expense to the City, and in the form prescribed by this Agreement:

- i) To the extent not previously provided to the City, audited financial statements for the three years immediately preceding the year in which the rate review is conducted, which financial statements shall show the Gross Revenue derived by Contractor from 22 the service provided by it in the Franchise Area pursuant to this Agreement separate from the revenues derived by Contractor from any and all other Contractor operations.
 - ii) Gross Revenues and Franchise Expenses for the prior three fiscal years by program, Gross Revenues and Franchise Expenses to date for the current fiscal year by program, and projected Gross Revenues and Franchise Expenses for the remainder of the current year and ensuing three (3) years by program.
 - iii) Number of customers and bad debts in each Rate Category.
 - iv) Total costs and allocation methods for Franchise Expenses shared with non-franchise services, Operations or activities.
 - v) To the extent not already provided above or disclosed in the Contractor's- audited financial statements previously presented to the City, related party transactions between the Contractor and its affiliates as determined in accordance with generally accepted accounting principles.
 - vi) Organization chart reflecting current staffing, job description and salary schedules.
 - vii) Contractor's depreciation and equipment replacement schedules.
 - viii) Schedule of rates charged at each Disposal Site used by the Contractor along with tonnages disposed at each Disposal Site.
 - ix) A survey of collection rates of and services provided by certain other collection and disposal companies to be agreed upon by City and Contractor.
 - x) Operational data for the services to be provided by Contractor under this Agreement.
 - xi) A proposed service fee (rate schedule) for each Rate Category, together with a rationale for how these rates were determined based on the Contractor's calculated Franchise Expenses and Operating Margin and the number and type of services within each Rate Category.
 - xii) Such other information as the City or the Contractor may deem necessary.
-

Rate Review Process. In connection with each rate review under this Section 7.2, any proposed adjustments to the Approved Service Rate Schedule shall be considered by the City Manager, who shall thereafter make a recommendation to the City Council regarding the proposed adjustment, which recommendation shall propose an adjustment in accordance with the terms, provisions and requirements set forth in this Agreement. The City Manager shall do the following in reviewing a proposed adjustment to the Approved Service Rate Schedule:

i) Take into consideration the Franchise Expenses, any performance incentives and sanctions, rate comparability, and the reasonableness of costs and other information as the City Manager determines to be appropriate. As used in this subsection, performance incentives and sanctions refer to arrangements that the City and the Contractor may enter into in the future such as: an incentive to the provider of a Recycling service to allow the service provider to keep an increasing percentage of revenues as larger amounts (or a wider range) of materials are Recycled; or a sanction consisting of liquidated damages, as specified in a written agreement, that are assessed against the service provider for failure to meet specified diversion goals.

ii) When determining the amount of Gross Revenues required to be produced by the Approved Service Rate Schedule, use the following equation:

Gross Revenues = (Franchise Expenses) + (Operating Margin)

City Council Approval. Upon receipt of the City Manager's recommendation, the City Council of City shall determine whether to approve by resolution any change in the Approved Service Rate Schedule.

FRANCHISE EXTENSION REQUIREMENTS:

Article 3 of the City's Solid Waste Franchise Agreement directs as follows:

On every fifth anniversary, and continuing until such time as the Term of this Agreement expires and is not extended, the City shall notify the Contractor in writing whether or not the City, in its sole discretion, elects to extend the Term of this Agreement for an additional five (5) years beyond the then current date (an "extension period"). If the City so elects to extend the term of this Agreement for an extension period, and the Contractor accepts such extension by a writing delivered to the City, then the term of this Agreement shall be extended for an additional five (5) years beyond the then current expiration date.

FINANCIAL ANALYSIS:

Beginning January 1st, 2022, the proposed fifth-anniversary rate adjustment has the following impact on Central Point residential customers:

35-gallon cart @ curb \$22.57/per month.
 65-gallon cart @ curb \$34.48/per month.
 95-gallon cart @ curb \$53.13/per month.

**Commercial and specialty rate information is included in the attached rate schedule (Exhibit C).*

COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

2040 City of Central Point Strategic Plan

GOAL 5 - Plan, design, and construct modern and efficient infrastructure in all areas and systems.

STRATEGY 1 – Continually update infrastructure plans.

STRATEGY 2 – Provide regular financial analysis on utility enterprise funds so infrastructure can be adequately maintained, restored, upgraded, and expanded.

STRATEGY 3 – Aggressively seek to capitalize on partnerships with Jackson County, the City of Medford, and the Oregon Department of Transportation to eliminate infrastructure deficiencies and build for the future.

STRATEGY 4 – Plan, design, and construct new public safety facilities (Police Station and East Side Substation) to meet the evolving needs of the community.

STRATEGY 5 – Continually invest in technology infrastructure that maximizes our efficiency and productivity.

STAFF RECOMMENDATION:

1. Provide additional comments to Rogue Disposal and Recycling on their requested action.
 2. Adopt resolution approving Rogue Disposal and Recycling's 25-Year Performance Audit, proposed Fifth Anniversary Rate Adjustment (effective January 1st, 2022) and 5-Year Franchise Agreement Extension.
-
-
-

RECOMMENDED MOTION:

I move to adopt Resolution No. _____, approving the rogue disposal & recycling, inc. Twenty

fifth year performance audit, fifth anniversary rate adjustment, amendment to annual adjustment and five-year franchise extension pursuant to article 7 of the solid waste agreement.

ATTACHMENTS:

1. 5YearReview_Central Point_R1_21.07.07
2. Central Point Jan2022 RDR Exhibit C
3. 5th Addendum (2021) - Central Point - Rev
4. 2021 Resolutions - Central Point - Rogue Recycling
5. Letter of Notification-Request RDR 2021



5-YEAR REVIEW
CITY OF CENTRAL POINT
JULY 8, 2021



Attachment: 5YearReview_Central Point_R1_21-07.07 (1441 : Rogue Disposal Franchise



Solid Waste System Goals

- Protect public and environmental health, welfare and safety through adherence to federal, state and local regulations and environmental goals.
- Provide consistent services and a regulated rate structure for citizens of Central Point, managed in an environmentally responsible manner.



5 Year Review: The Process

- Acceptance of Performance Audit (Maul, Foster, Alongi)
- Acceptance of Periodic Rate Adjustment Report
- Opportunity to adjust rates based on findings of rate report
- Approval of 5 year Franchise extension from December 31, 2026 expiration to December 31, 2031



RDR Customer Breakdown: Central Point

Residential Waste Customers: 4,255
Commercial Waste Customers: 233
Industrial Waste Customers: 23

Residential Recycling Customers: 3,895
Commercial Recycling Customers: 150

Green Waste Subscribers: 1,953
*46% of residential customers subscribe to green waste service



Attachment: 5YearReview_Central Point_R1_21-07.07 (1441 : Rogue Disposal Franchise



Challenges in Recycling

- 2018 Global recycling markets crashed
- RDR took action quickly to sustain recycling programs
- Despite the challenges of finding responsible markets for our material, RDR has still managed to collect and market over 30K tons of recyclables per year over the past three years



Recycling crisis looms, disposal companies warn





Actions and Results

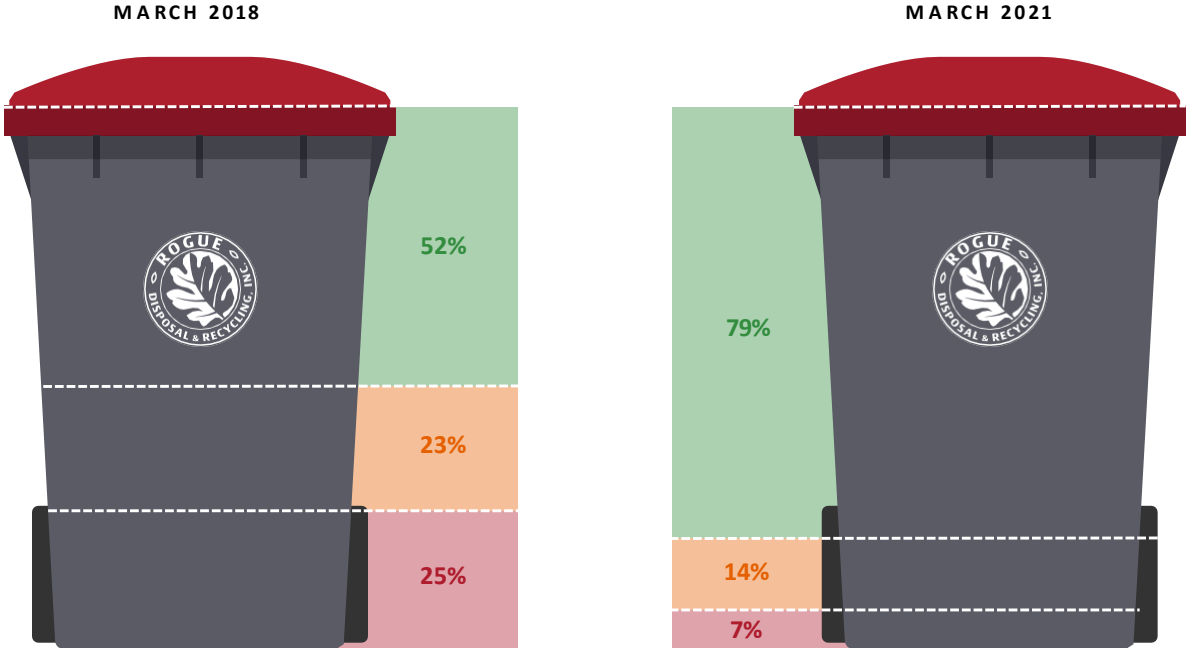
Contamination Reduction

Working with our customers to reduce contamination has allowed us to contain recycling-related costs

Residential Commingle Recycling Composition Studies March 2018 vs. March 2021

- **New Commingle Mix**
(Cardboard, Tin/Aluminum, Milk Jugs, Newspaper)
- **Materials No Longer Accepted**
(Glass, Mixed Paper, Mixed Plastics)
- **Garbage**
(Material that has never been accepted)

Contamination in Commercial and Multi-Family Recycling has also decreased over the same period.





Actions and Results

- Increased customer education and engagement
 - New Website (roguedisposal.com)
 - Waste Wizard feature available on website & RDR mobile app
 - Developed Cart Stickers and Tags
 - On-board Cameras & Computers – allow us immediate feedback loop between customer, drivers and customer service



Actions and Results

■ Succession planning

In light of imminent retirements, operational leadership structure has been reorganized and enhanced to meet future needs. This allows for greater focus on labor and regulatory requirements.

■ Information System Upgrades

- Server upgrades
- RDR Mobile App with real-time service alerts
- Added ability for remote work
- Added secure virtual meeting space
- Onboard computers/Soft-Pak billing system



Challenges of 2020

Pandemic

- As an essential service provider, RDR's leadership team focused on compliance and implementing protocols to keep our employees and customers safe and well informed
- So far, these protocols allowed RDR to serve its customers without any service interruptions during the pandemic
- We have the ability to accommodate unique needs of customers during pandemic – RDR At Your Service

Wildfire Response

- RDR worked closely with emergency response personnel in all affected communities
- RDR's onboard computer system for routing allowed supervisors to re-route for efficient collection after the loss of hundreds of residences and business accounts



Recycling Legislation SB 582

Benefits of recently passed legislation

SB 582 – The Plastic Pollution and Recycling Modernization Act

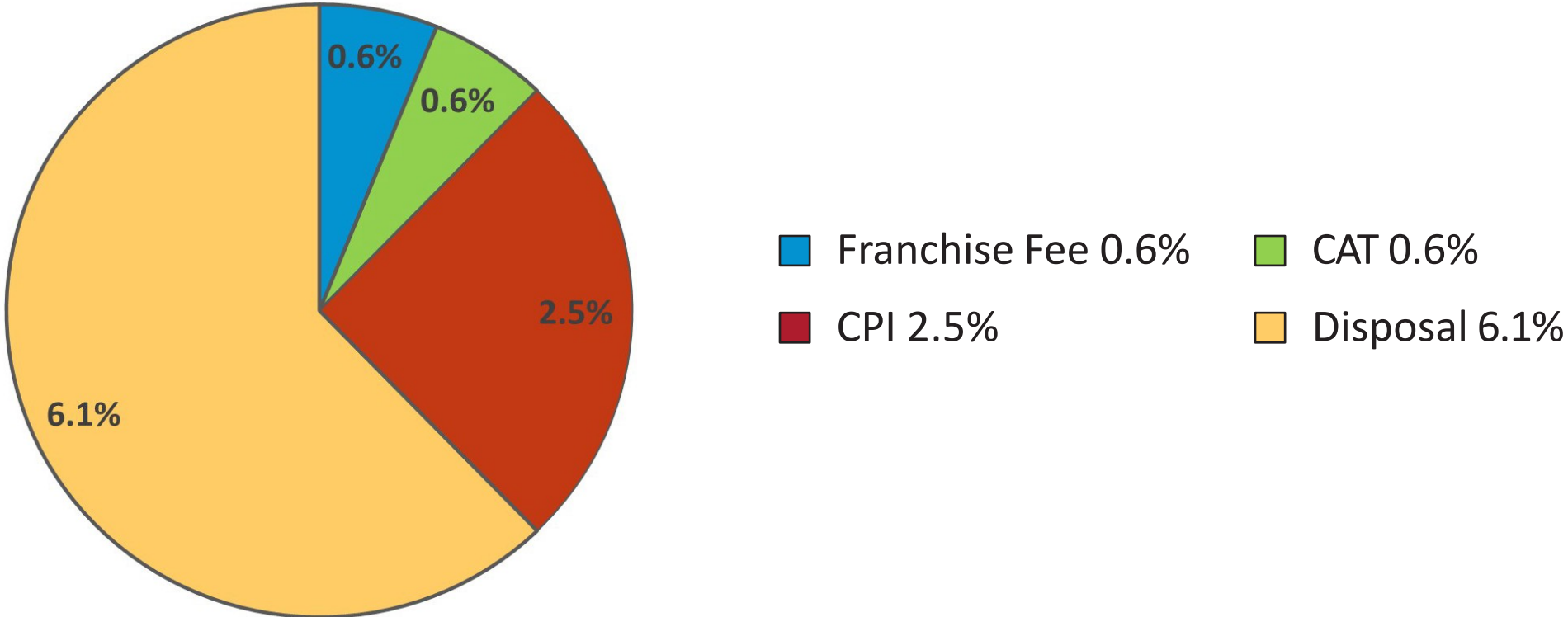
Benefits to Oregonians – creates a more stable, consistent and affordable recycling system in Oregon

- Law goes into effect January 1, 2022, and new programs will roll out as of July 1, 2025
- Establishes consistent statewide list of recyclable materials collected curbside
- Requires Truth in Labeling
- Shared responsibility - producers of packaging materials will provide \$\$\$
- Maintains local government authority over solid waste management



Revisions to Schedule of Approved Rates

RDR proposes 9.8% increase to customer rates





Revisions to Schedule of Approved Rates

What does this mean for our customers?

Examples:

- + \$2.01 per month for a residential customer using a 35-gallon trash cart (most commonly subscribed to service level)
- + \$17.59 per month for a commercial customer using a 2-yard trash container, serviced once per week
- + .77 cents per month for a residential customer using subscription green waste service

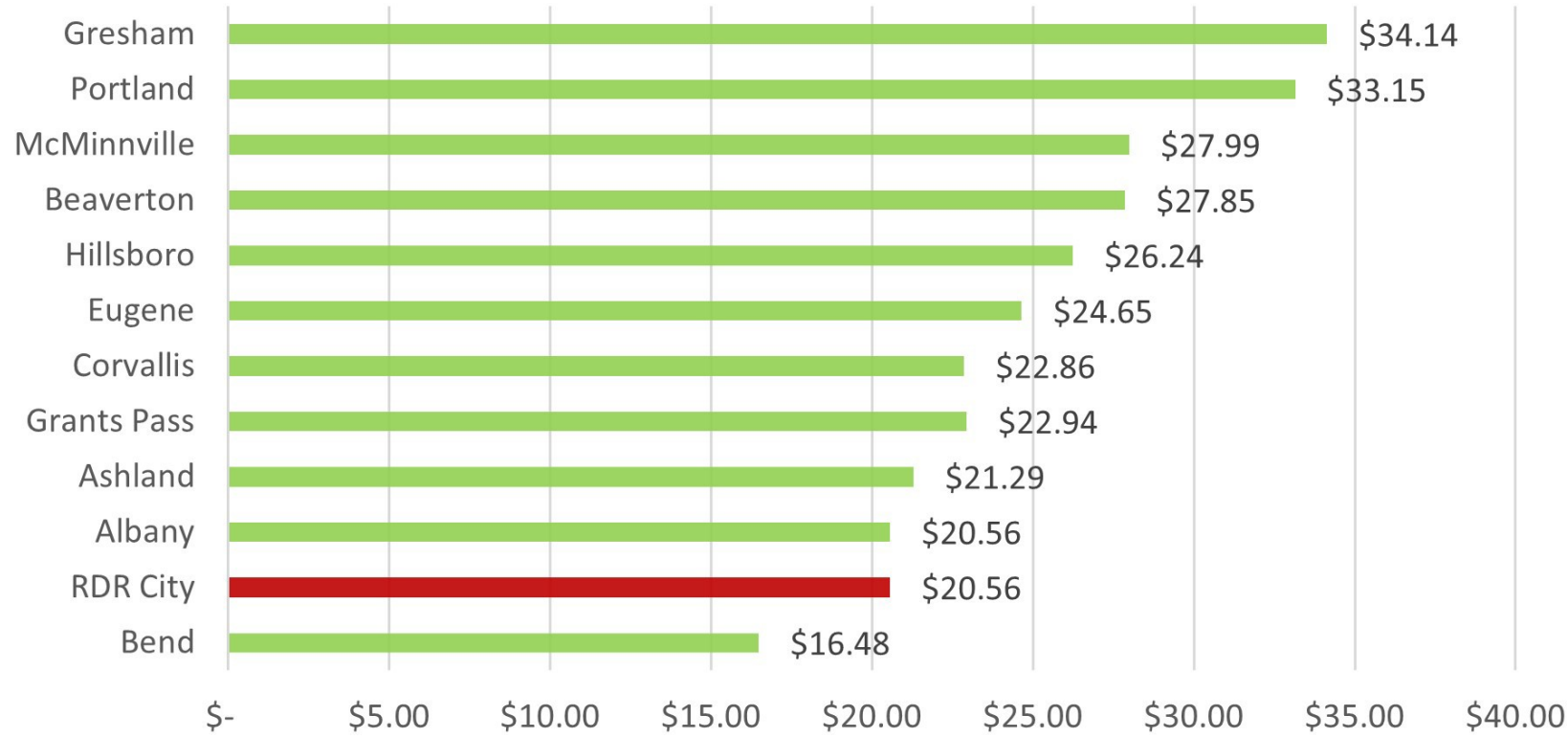


Attachment: 5YearReview_Central Point_R1_21-07.07 (1441 : Rogue Disposal Franchise



Current Statewide Rate Comparisons

Monthly Residential 35 Gallon Cart Rate



Attachment: 5YearReview_Central Point_R1_21-07.07 (1441 : Rogue Disposal Franchise



Request for Council Action

- Acceptance of Performance Audit (Maul, Foster, Alongi)
- Acceptance of Periodic Rate Adjustment Report
- Approval of 5 year Franchise extension
- Approval of new Rate Schedule to be effective January 1, 2022
- Approval of modification of annual rate adjustment (CPI) to reflect combination of disposal and CPI escalators



Thank you for the privilege of serving your community!

Questions?

Garry Penning: gpenning@roguedisposal.com

Laura Leebrick: lleebrick@roguedisposal.com



**EXHIBIT C
CITY OF CENTRAL POINT, OREGON
ROGUE DISPOSAL AND RECYCLING, INC.
MAXIMUM MONTHLY COLLECTION RATES
EFFECTIVE JANUARY 1, 2022**

Residential Collection

Garbage/Curbside Recycling			
35 gallon cart@curb (1 can service)	\$	22.57	Per month
65 gallon cart@ curb (2 can service)	\$	37.85	Per month
95 gallon cart@curb (3 can service)	\$	53.13	Per month
Each Additional Can Serviced Weekly	\$	15.28	Per month
Extra 32 gallon Can or Bag On Route	\$	5.64	Each
Special Pick-up - Non-Garbage Customer	\$	19.16	Each
Recycling Cart - Non-Garbage Customer	\$	6.69	Per month
Green Waste Cart - Garbage Customer	\$	8.62	Per month
Green Waste Cart - Non-Garbage Customer	\$	11.07	Per month

Commercial (Front-Load)

Monthly Front-Load Rates by Container size and Frequency of pickup

	11/2YD	2YD	3YD	4YD	6YD	SYD
1xWeek	\$ 151.26	\$ 197.13	\$ 233.56	\$ 302.38	\$ 434.49	\$ 566.46
2xWeek	\$ 244.99	\$ 317.67	\$ 440.24	\$ 560.75	\$ 784.78	\$ 1,006.72
3xWeek	\$ 354.07	\$ 451.71	\$ 629.70	\$ 794.29	\$ 1,198.13	\$ 1,602.01
4xWeek	\$ 463.14	\$ 568.42	\$ 805.79	\$ 1,075.66	\$ 1,575.15	\$ 2,076.68
5xWeek	\$ 553.15	\$ 685.13	\$ 1,008.67	\$ 1,334.00	\$ 1,956.09	\$ 2,578.08
6xWeek	\$ 627.77	\$ 821.12	\$ 1,198.13	\$ 1,590.52	\$ 2,335.01	\$ 3,079.59
Extra p/u	\$ 54.54	\$ 65.98	\$ 88.98	\$ 112.01	\$ 157.90	\$ 203.82

Commercial Commingle Recycling (Front-Load)

Monthly Front-Load Rates by Container size and Frequency of Pickup

	11/2 YD	2YD	3YD	4YD	6YD	BYD
1xWeek	\$ 45.38	\$ 59.14	\$ 70.07	\$ 90.71	\$ 130.35	\$ 169.94
Extra p/u	\$ 16.36	\$ 19.79	\$ 26.69	\$ 33.60	\$ 47.37	\$ 61.15

Commercial Commingle Recycling (Bins)

65 gallon cart @ curb (2 can service)	\$	11.36
95 gallon cart@ curb (3 can service)	\$	15.94

Industrial (Roll-off)

DROP BOX SERVICE RATES

<u>SIZE</u>	<u>RATE PER LOAD</u>			<u>DAILY RENT</u>	
	<u>LOOSE</u>	<u>COMPACT</u>	<u>PERM</u>	<u>TEMP</u>	
10 Yard Box (rate per haul)	\$ 308.31	\$ 516.70	\$ 3.29	\$	6.57
20 Yard Box (rate per haul)	\$ 463.48	\$ 877.14	\$ 4.12	\$	8.20
27 Yard Box (rate per haul)	\$ 572.31		\$ 4.91	\$	9.86
30 Yard Box (rate per haul)	\$ 618.25		\$ 4.91	\$	9.86
33 Yard Box (rate per haul)	\$ 662.20		\$ 4.91	\$	9.86
40 Yard Box (rate per haul)	\$ 802.15		\$ 4.91	\$	9.86
50 Yard Box (rate per haul)	\$ 1,003.10		\$ 4.91	\$	9.86

Attachment: Central Point Jan2022 RDR Exhibit C (1441 : Rogue Disposal Franchise Amendment)

EXHIBIT C
CITY OF CENTRAL POINT, OREGON
ROGUE DISPOSAL AND RECYCLING, INC.
MAXIMUM MONTHLY COLLECTION RATES
EFFECTIVE JANUARY 1, 2022

Residential Collection Miscellaneous Charges

\$ 31.67	Exchange Roll Cart	\$	7.70	Long Driveway with Cart {per Month}
\$ 2.61	32 Gal Can Extra GW Pick-Up	\$	131.19	Misc. Labor {Truck and Driver} per Hour
\$ 1.80	Extra GW Cart Rent Per Month	\$	57.38	Misc. Labor {Helper} per Hour
\$ 3.44	On Call Extra GW Cart Pick-up	\$	55.59	Small Quantity Pgm - 5 Pre-Paid Bags
\$ 8.52	Recycle Bin Not Returned	\$	76.75	Small Quantity Pgm - 10 Pre-Paid Bags
\$ 3.44	For Each Addtl Resident Roll Cart	\$	85.26	1st Appliance
\$ 29.21	Off Route Charge	\$	42.64	Ea. Additional Appliance
\$ 70.50	35 Gal Lost Cart Replacement	\$	16.39	Tire - Passenger
\$ 82.01	65 Gal Lost Cart Replacement	\$	32.79	Tire - Truck
\$103.31	95 Gal Lost Cart Replacement	\$	32.79	Misc. Loose Waste - Per Yard
\$ 7.37	Cart/Can not at Curb {per Month}	\$	10.34	Christmas Tree - Per 3 Ft Section

Commercial Collection Special Charges

\$ 32.79	Per month temporary container rental
\$ 32.79	Per month temporary cardboard only; waived if minimum p/u every other week
\$ 42.64	Trip charge/pull fee
\$ 65.59	Cleaning
\$ 65.59	Deposit
\$ 65.59	Pickup & Delivery
\$ 19.70	Pull Out from 30-90 ft {multiply by p/u per week}
\$ 14.76	Key Acct
\$ 8.20	Per month auto lock container
\$ 26.24	Lock replacement
\$132.81	6 yd. or under FL compactor cleaning fee

		<u>Deliver</u>	<u>Pickup</u>
\$143.66	Bin for a day - 5 yard - 24 hours 1 Dump		
\$162.80	Bin for a week-end - 5 yard - 48 hours 1 Dump	Fri	Mon am
\$181.95	Bin for 72 hours - 5 yard - 1 Dump	1st day	4th day
\$110.99	Yard debris bin for a day - 5 yard - 24 hours 1 Dump		
\$129.50	Yard debris bin for a week-end - 5 yard 1 Dump	Fri	Mon am
\$148.02	Yard debris bin for 72 hours - 5 yard 1 Dump	1st day	4th day

Industrial Special Charges

\$ 43.80	Compactor - Per Yard Under 20 Yds
\$ 40.53	Compactor - Per Yard 20 Yds and Over
\$145.96	Compactor Cleaning
\$ 42.64	Trip Charge{move box @ location} / Turn Around Charge
\$137.76	Haul Fee - Asbestos Box {Requires special per yard disposal charge}
\$137.76	Wood Box Haul Fee
\$ 3.29	Per Mile, starting after border boundary
\$ 32.79	Car tire in drop box
\$ 49.18	Truck tire in drop box
\$ 85.26	Haul Fee to haul appliance from landfill to transfer station

Medical Waste

\$ 24.58	1 Gallon container {Residential}	\$	44.57	15 Gallon Steri-Box {Commercial Pick-Up}
\$ 30.68	2 Gallon container {Residential}	\$	59.08	34 Gallon Steri-Box {Commercial Pick-Up}
		\$	54.70	21 Gallon Steri-Tub {Commercial Pick-Up}
		\$	65.48	48 Gallon Steri-Tub {Commercial Pick-Up}

Attachment: Central Point Jan2022 RDR Exhibit C (1441 : Rogue Disposal Franchise Amendment)

FIFTH ADDENDUM TO SOLID WASTE COLLECTION FRANCHISE AGREEMENT

THIS FIFTH ADDENDUM TO SOLID WASTE COLLECTION FRANCHISE AGREEMENT ("Addendum") is made and entered into this ___ day of ___, 2021, amends that certain SOLID WASTE COLLECTION FRANCHISE AGREEMENT dated July 18, 1996 (the "Agreement"), between the CITY OF CENTRAL POINT, a political subdivision of the State of Oregon hereinafter referred to as ("City,") and ROGUE DISPOSAL & RECYCLING, INC., an Oregon Corporation, hereinafter referred to as ("Contractor").

RECITALS

WHEREAS the parties have agreed to a modification to the Agreement on the terms and conditions as set forth below.

NOW THEREFORE in consideration of the mutual covenants, agreements, and conditions contained herein the parties agree as follows:

1. Pursuant to Section 3.1B of the Agreement, the City hereby notices the Contractor that the city elects to extend the Term of the Agreement to December 31, 2031. In accordance with Section 3.1B, the Contractor hereby accepts such extension. Therefore, the term of the Agreement shall be extended to expire on December 31, 2031.
2. Pursuant to Section 7.2, effective January 1, 2022 the Approved Service Rate Schedule attached hereto as Exhibit C shall be effective.
3. Section 7.5 of the Franchise Agreement is amended to read in its entirety as follows:

7.5 Annual Adjustment of Approved Service Rate Schedule

On each Anniversary Date (other than an Anniversary Date that is immediately preceded by a Fifth Anniversary Rate Review), commencing with the Anniversary Date that falls on January 1, 1998, there shall be an annual adjustment of the Approved Service Rate Schedule pursuant to and in accordance with this Section 7.5. If the City and the Contractor agree, the annual adjustment pursuant to this Section 7.5 may be waived for any year.

Unless such annual adjustment for a given year is waived by the Contractor and the City, the Contractor shall be required to deliver to the City, not less than 120 days prior to such Anniversary Date, a detailed calculation of the adjustment to each Rate Category Rate in the Approved Service Rate Schedule then in effect calculated in accordance with the Annual Rate Adjustment Formula set forth in this Section 7.5, together with all supporting information. The City Administrator shall review such information and not less than 90 days prior to the related Anniversary Date, the City shall inform the Contractor as to whether or not it agrees with the Contractor's calculation of such adjustment. The City shall specify to the Contractor in writing the particulars of any disagreement with the contractor's calculation of such adjustment, and the City and Contractor shall meet in order to resolve any such differences. Effective as of each Anniversary Date for which an annual adjustment is made pursuant to this Section 7.5, each Rate Category Rate in the Approved

Service Rate Schedule shall be adjusted in accordance with the Annual Rate Adjustment Formula set forth in this Section 7.5.

For purposes of this Section 7.5, the Annual Rate Adjustment Formula for each Rate Category Rate shall be as follows:

- ARCR = {(RCR multiplied by [(NDP multiplied by CPIC) plus (DP multiplied by DI)]} plus RCR
- RCR = the service rate for a particular Rate Category as set forth in the Approved Service Rate Schedule in effect immediately prior to the Anniversary Date
- NDP = the “non-disposal percentage” which shall be 70%, as such percentage may be adjusted from time to time in connection with adjustments under Section 7.2
- CPIC = the percentage increase or decrease in the “CPI for all Urban Consumers (CPIAUCSL)” as reported by the U.S. Bureau of Labor Statistics as published for July of the current year and the same index as published for July of the immediately preceding year; provided that if the Approved Service Rate Schedule has been adjusted pursuant to a Requested Rate Review or a Special Rate Review since the last annual adjustment of the Approved Service Rate Schedule pursuant to this Section 7.5, then the percentage change (increase or decrease) for such index shall be based on the relevant index published in July of the current year and the month immediately prior to the date upon which the Approved Service Rate Schedule was adjusted pursuant to such Requested Rate Review or Special Rate Review; provided that the adjustment on January 1, 2023 shall use the period of July 2021 to July 2022.
- DP = the “disposal percentage” which shall be 30%, as such percent may be adjusted from time to time in connection with adjustments under Section 7.2
- DI = the most recent disposal increase approved by Rogue Transfer & Recycling, LLC, or such other disposal increase amount as may be agreed upon by the City Administrator and Contractor
- ARCR = the RCR as adjusted pursuant to the Annual Rate Adjustment Formula

4. Except as modified and amended herein the Franchise Addendum, dated June 6, 1996, shall be and remains in full force and effect.

* * * * *

EXECUTED as of the day and year first above written.

OPERATOR:

ROGUE DISPOSAL & RECYCLING, INC.
an Oregon corporation

CITY OF CENTRAL POINT

By:
Stephen Gambee, Chief Executive Officer

By: _____
Hank Williams, Mayor

Attest by: _____
Deanna Casey, City Recorder

Approved as to Form:

Attorney for the City of Central Point

Attachment: 5th Addendum (2021) - Central Point - Rev (1441 : Rogue Disposal Franchise Amendment)

RESOLUTION NO. _____

A RESOLUTION APPROVING THE ROGUE DISPOSAL & RECYCLING, INC. TWENTY FIFTH YEAR PERFORMANCE AUDIT, FIFTH ANNIVERSARY RATE ADJUSTMENT, AMENDMENT TO ANNUAL ADJUSTMENT AND FIVE-YEAR FRANCHISE EXTENSION PURSUANT TO ARTICLE 7 OF THE SOLID WASTE AGREEMENT.

RECITALS:

1. The City and Rogue Disposal & Recycling, Inc. (Rogue Disposal) entered into a Solid Waste Collection Franchise Agreement in 1996, including subsequent amendments.
2. The purpose of the agreement is to obtain the benefits of the franchise fee for the use of the city's right-of-way and to establish rights and procedures for use of the right-of-way and to approve the rates established by Rogue Disposal;
3. Rogue Disposal has requested an extension of the franchise as permitted in Section 3.1b of the Solid Waste Franchise agreement to December 31st, 2031
4. A Twenty Fifth year performance audit (Maul, Foster & Alongi report) has been submitted for approval in accordance with Article 7 of the agreement and a fifth anniversary rate increase, as depicted in Exhibit C, and a change to the annual adjustment formula have been requested.

Section 1. Twenty Fifth Year Performance Audit: Pursuant to Article 7 of the City's Solid Waste Franchise Agreement the Twenty Fifth year performance audit submitted by Rogue Disposal, dated as of June __, 2021 is approved.

Section 2. Pursuant to Article 7 of the City's Solid Waste Franchise Agreement the Fifth Anniversary Rate Increase: The fifth anniversary rate adjustment, as depicted in Exhibit C, is approved effective January 1st, 2022.

Section 3. Franchise Extension: 1. Pursuant to Section 3.1B of the Agreement, the City hereby elects to extend the Term of the Agreement to December 31, 2031.

Section 4. Fifth Addendum: The Fifth Addendum adjusting the Annual Adjustment Formula and documenting the other approved actions above is approved.

Passed by the Counsel and signed by me in authentication of its passage this __ day of _____, 2021.

Mayor Hank Williams

Deanna Casey, City Recorder

Resolution No. _____ (08/08/2021)

Attachment: 2021 Resolutions - Central Point - Rogue Recycling [Revision 1] (1441 : Rogue Disposal Franchise Amendment)



roguedisposal.com

July 1, 2021

City of Central Point
 Attn: Chris Clayton
 140 South Third St.
 Central Point, OR 97502

Dear Chris:

In anticipation of the upcoming Rogue Disposal & Recycling 5 Year Review process with the City of Central Point, we respectfully request that the City Council consider the following:

- Acceptance of the 25th Anniversary Performance Audit (Maul, Foster, and Alongi Report)
- Acceptance of the Rogue Disposal & Recycling Periodic Rate Adjustment Report which will be submitted on or before July 6, 2021

The anticipated rate increase is 9.8%, which equates to a monthly increase of \$2.01 for weekly 35-gallon cart service, which is the most common level of residential service.

Further details of the rate review will be provided at the July 8 council meeting, and Laura will come with a presentation and be able to answer questions that the staff and council may have.

We appreciate the long-term partnership that our company has with the city and look forward to providing services to the residents of Central Point for years to come.

Should you have any questions, please contact me at 541-210-1405, or Laura at 503-739-6049.

Sincerely,

Garry Penning
 Director, Governmental Affairs and Marketing

Attachment: Letter of Notification-Request RDR 2021 (1441 : Rogue Disposal Franchise Amendment)

RESOLUTION NO. _____

A RESOLUTION REGARDING A LEASE PURCHASE AGREEMENT FOR THE PURPOSE OF FINANCING PUBLIC WORKS EQUIPMENT

Recitals:

City of Central Point desires to enter into that certain Lease-Purchase Agreement by and between Caterpillar Financial Services Corporation and the City of Central, for the purpose of financing 2021 Caterpillar 299D3XE Compact Track Loader. The City of Central Point desires to authorize the City Manager or the City manager designee to sign the agreement.

Therefore, the City of Central Point resolves as follows:

Section 1.

That the City of Central Point enters into a Lease Purchase Agreement with Caterpillar Financial Services Corporation for the purpose of financing a 2021 Caterpillar 299D3XE Compact Track Loader.

Section 2.

That the City of Central Point will designate City Manager or the City Manager designee, as an authorized signer of the Lease Purchase Agreement by and between the City of Central Point and Caterpillar Financial Services Corporation as well as any other ancillary exhibit, certificate, or documentation needed for the Agreement.

Passed by the Council and signed by me in authentication of its passage this 12th Day of August 2021.

Mayor Hank Williams

ATTEST:

City Recorder

Attachment: Resolution Lease Purchase Agreement - Caterpillar Equipment (1443 : Lease Purchase Agreement for Public Works Equipment)

**Governmental Equipment Lease-Purchase Agreement
Contract Number 001-70038862**



1. PARTIES

LESSOR ("we", "us", or "our"):

CATERPILLAR FINANCIAL SERVICES CORPORATION
2120 West End Avenue
Nashville, TN 37203

LESSEE ("you" or "your"):

CITY OF CENTRAL POINT
140 S 3RD ST
CENTRAL POINT, OR 97502

In reliance on your selection of the equipment described below (each a "Unit"), we have agreed to acquire and lease the Units to you, subject to the terms of this Agreement. **Until this Agreement has been signed by our duly authorized representative, it will constitute an offer by you to enter into this Agreement with us on the terms stated herein.**

2. DESCRIPTION OF THE UNITS

DESCRIPTION OF UNITS Whether the Unit is new or used, the model number, the manufacturer, and the model name	SERIAL/VIN Unique ID number for this Unit	ANNUAL LEASE PAYMENT This is due per period, as stated below in section 3.	FINAL LEASE PAYMENT	DELIVERY DATE Enter date machine was delivered to you.
1 New 2021 Caterpillar 299D3XE Compact Track Loader		\$37,989.84	\$1.00	

TERMS AND CONDITIONS

3. Lease Payments; Current Expense You will pay us the lease payments, including the final lease payment set forth above (collectively, the "Lease Payments"). Lease Payments will be paid by you to us as follows: a first payment of \$37,989.84 will be paid in advance and the balance of the Lease Payments is payable in 2 successive annual payments of which the first 3 payments are in the amount of \$37,989.84 each, and the last payment is in the amount of \$1.00 plus all other amounts then owing under this Lease, with the first Lease Payment due on the date that we sign this Lease and subsequent Lease Payments due on a like date of each year thereafter until paid in full. A portion of each Lease Payment constitutes interest and the balance of each Lease Payment is payment of principal. The Lease Payments will be due without demand. You will pay the Lease Payments to us at CATERPILLAR FINANCIAL SERVICES CORP., P.O. BOX 100647, PASADENA, CA 91189-0647 or such other location that we designate in writing. Your obligations, including your obligation to pay the Lease Payments due in any fiscal year, will constitute a current expense of yours for such fiscal year and will not constitute an indebtedness of yours within the meaning of the constitution and laws of the State in which you are located (the "State"). Nothing in this Agreement will constitute a pledge by you of any taxes or other moneys, other than moneys lawfully appropriated from time to time for the payment of the "Payments" (as defined in the last sentence of this Section) owing under this Agreement. **You agree that, except as provided in Section 7, your duties and liabilities under this Agreement and any associated documents are absolute and unconditional. Your payment and performance obligations are not subject to cancellation, reduction, or setoff for any reason. You agree to settle all claims, defenses, setoffs, counterclaims and other disputes you may have with the Supplier, the manufacturer of the Unit, or any other third party directly with the Supplier, the manufacturer or the third party, as the case may be. You will not assert, allege or make any such claim, defense, setoff, counterclaim or other dispute against us or with respect to the payments due us under this**

Agreement. As used in this Agreement, "Payments" will mean the Lease Payments and any other amounts required to be paid by you.

The portion of the Lease Payments constituting principal will bear interest (computed on the basis of actual days elapsed in a 360 day year) at the rate of 2.99% per annum.

- 4. Late Charges** If we do not receive a Payment on the date it is due, you will pay to us, on demand, a late payment charge equal to the lesser of five percent (5%) of such Payment or the highest charge allowed by law.
- 5. Security Interest** To secure your obligations under this Agreement, you grant us a continuing first priority security interest in each Unit (including any Additional Collateral), including all attachments, accessories and optional features (whether or not installed on such Units) and all substitutions, replacements, additions, and accessions, and the proceeds of all the foregoing, including, but not limited to, proceeds in the form of chattel paper. You authorize the filing of such financing statements and will, at your expense, do any act and execute, acknowledge, deliver, file, register and record any document, which we deem desirable to protect our security interest in each Unit and our rights and benefits under this Agreement. You, at your expense, will protect and defend our security interest in the Units and will keep the Units free and clear of any and all claims, liens, encumbrances and legal processes however and whenever arising.
- 6. Disclaimer of Warranties** WE HAVE NOT MADE AND DO NOT MAKE ANY WARRANTY, REPRESENTATION OR COVENANT OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE UNITS. AS TO US, YOUR LEASE AND PURCHASE OF THE UNITS WILL BE ON AN "AS IS" AND "WHERE IS" BASIS AND "WITH ALL FAULTS". **Nothing in this Agreement is intended to limit, waive, abridge or otherwise modify any rights, claims, or causes of action that you may have against any person or entity other than us.**

- 7. Non-Appropriation** You have an immediate need for, and expect to make immediate use of, the Units. This need is not temporary or expected to diminish during the term of this Agreement. To that end, you agree, to the extent permitted by law, to include in your budget for the current and each successive fiscal year during the term of this Agreement, a sufficient amount to permit you to discharge your obligations under this Agreement. Notwithstanding any provision of this Agreement to the contrary, we and you agree that, in the event that prior to the commencement of any of your fiscal years you do not have sufficient funds appropriated to make the Payments due under this Agreement for such fiscal year, you will have the option of terminating this Agreement as of the date of the commencement of such fiscal year by giving us sixty (60) days prior written notice of your intent to terminate. No later than the last day of the last fiscal year for which appropriations were made for the Payments (the "Return Date"), you will return to us all of the Units, at your sole expense, in accordance with Section 14, and this Agreement will terminate on the Return Date without penalty or expense to you and you will not be obligated to pay the Lease Payments beyond such fiscal year; provided, that you will pay all Payments for which moneys have been appropriated or are otherwise available; and provided further, that you will pay month-to-month rent at the rate set by us for each month or part of any month that you fail to return the Units.
- 8. Tax Warranty** You will, at all times, do and perform all acts and things necessary and within your control to ensure that the interest component of the Lease Payments will, for the purposes of Federal income taxation, be excluded from our gross income. You will not permit or cause your obligations under this Agreement to be guaranteed by the Federal Government or any branch or instrumentality of the Federal Government. You will use the Units for the purpose of performing one or more of your governmental functions consistent with the scope of your authority and not in any trade or business carried on by a person other than you. You will report this Agreement to the Internal Revenue Service by filing Form 8038G, 8038GC or 8038, as applicable. Failure to do so will cause this Agreement to lose its tax exempt status. You agree that if the appropriate form is not filed, the interest rate payable under this Agreement will be raised to the equivalent taxable interest rate. If the use, possession or acquisition of the Units is determined to be subject to taxation, you will pay when due all taxes and governmental charges assessed or levied against or with respect to the Units.
- 9. Assignment** You may not, without our prior written consent, by operation of law or otherwise, assign, transfer, pledge, hypothecate or otherwise dispose of your right, title and interest in and to this Agreement and/or the Units and/or grant or assign a security interest in this Agreement and/or the Units, in whole or in part. We may not transfer, sell, assign, pledge, hypothecate, or otherwise dispose of our right, title and interest in and to this Agreement and/or the Units and/or grant or assign a security interest in this Agreement and/or the Units, in whole or in part.
- 10. Indemnity** To the extent permitted by law, you assume liability for, agree to and do indemnify, protect and hold harmless us and our employees, officers, directors and agents from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses (including reasonable attorney's fees), of whatsoever kind and nature, arising out of the use, condition (including, but not limited to, latent and other defects and whether or not discoverable by you or us), operation, ownership, selection, delivery, storage, leasing or return of any item of Units, regardless of where, how and by whom operated, or any failure on your part to accept the Units or otherwise to perform or comply with any conditions of this Agreement.
- 11. Insurance; Loss and Damage** You bear the entire risk of loss, theft, destruction or damage to the Units from any cause whatsoever. No loss, theft, destruction or damage of the Units will relieve you of the obligation to make Lease Payments or to perform any obligation owing under this Agreement. You agree to keep the Units insured to protect all of our interests, at your expense, for such risks, in such amounts, in such forms and with such companies as we may require, including but not limited to fire and extended coverage insurance, explosion and collision coverage, and personal liability and property damage liability insurance. Any insurance policies relating to loss or damage to the Units will name us as loss payee as our interests may appear and the proceeds may be applied toward the replacement or repair of the Units or the satisfaction of the Payments due under this Agreement. You agree to use, operate and maintain the Units in accordance with all laws, regulations and ordinances and in accordance with the provision of any policies of insurance covering the Units, and will not rent the Units or permit the Units to be used by anyone other than you. You agree to keep the Units in good repair, working order and condition and house the Units in suitable shelter, and to permit us or our assigns to inspect the Units at any time and to otherwise protect our interests in the Units. If any Unit is customarily covered by a maintenance agreement, you will furnish us with a maintenance agreement by a party acceptable to us.
- 12. Default; Remedies** An "Event of Default" will occur if (a) you fail to pay any Payment when due and such failure continues for ten (10) days after the due date for such Payment or (b) you fail to perform or observe any other covenant, condition, or agreement to be performed or observed by you under this Agreement and such failure is not cured within twenty (20) days after written notice of such failure from us. Upon an Event of Default, we will have all rights and remedies available under applicable law. In addition, we may declare all Lease Payments due or to become due during the fiscal year in which the Event of Default occurs to be immediately due and payable by you and/or we may repossess the Units by giving you written notice to deliver the Units to us in the manner provided in Section 14, or in the event you fail to do so within ten (10) days after receipt of such notice, and subject to all applicable laws, we may enter upon your premises and take possession of the Units. Further, if we financed your obligations under any extended warranty agreement such as an Equipment Protection Plan, Extended Service Contract, Extended Warranty, Customer Service Agreement, Total Maintenance and Repair Agreement or similar agreement, we may cancel such extended warranty agreement on your behalf and receive the refund of the extended warranty agreement fees that we financed but had not received from you as of the date of the Event of Default.
- 13. Miscellaneous** This Agreement may not be modified, amended, altered or changed except by a written agreement signed by you and us. In the event any provision of this Agreement is found invalid or unenforceable, the remaining provisions will remain in full force and effect. This Agreement, together with exhibits, constitutes the entire agreement between you and us and supersedes all prior and contemporaneous writings, understandings, agreements, solicitations, documents and representations, expressed or implied. Any terms and conditions of any purchase order or other documents submitted by you in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on us and will not apply to this Agreement. You agree that we may correct patent errors in this Agreement and fill in blanks including, for example, correcting or filling in serial numbers, VIN numbers, and dates. Any notices required to be given under this Agreement will be given to the parties in writing and by certified mail at the address provided in this Agreement, or to such other addresses as each party may

substitute by notice to the other, which notice will be effective upon its receipt.

14. **Title; Return of Units** Notwithstanding our designation as "Lessor," we do not own the Units. Legal title to the Units will be in you so long as an Event of Default has not occurred, and you have not exercised your right of non-appropriation. If an Event of Default occurs or if you non-appropriate, full and unencumbered title to the Units will pass to us without the necessity of further action by the parties, and you will have no further interest in the Units. If we are entitled to obtain possession of any Units or if you are obligated at any time to return any Units, then (a) title to the Units will vest in us immediately, and (b) you will, at your expense, promptly deliver the Unit to us properly protected and in the condition required by Section 11. You will deliver the Unit, at our option, (i) to the nearest Caterpillar dealer selling equipment of the same type as the Unit; or (ii) on board a carrier named by us and shipping the Unit, freight collect, to a destination designated by us. If the Unit is not in the condition required by Section 11, you must pay us, on demand, all costs and expenses incurred by us to bring the Unit into the

required condition. Until the Units are returned as required above, all terms of this Agreement will remain in full force and effect including, without limitation, your obligation to pay Lease Payments and to insure the Units.

15. **Other Documents** In connection with the execution of this Agreement, you will cause to be delivered to us (i) either (A) a certified copy of your authorizing resolution substantially in the form attached as Attachment B and a copy of the minutes of the relevant meeting or (B) an opinion of your counsel substantially in the form attached as Attachment C; (ii) a copy of the signed Form filed with the Internal Revenue Service required in Section 8 above as Attachment D; and (iii) any other documents or items required by us.

16. **Applicable Law** This Agreement will be governed by the laws, excluding the laws relating to the choice of law, of the State in which you are located.

SIGNATURES

LESSOR **CATERPILLAR FINANCIAL SERVICES CORPORATION**

LESSEE **CITY OF CENTRAL POINT**

Signature _____
Name (Print) _____
Title _____
Date _____

Signature _____
Name (Print) _____
Title _____
Date _____

Attachment: Exhibit A - Caterpillar Financial Services Corp Lease Structure (1443 : Lease Purchase Agreement for Public Works Equipment)



City of Central Point Staff Report to Council

ISSUE SUMMARY

TO: City Council **DEPARTMENT:** Public Works

FROM: Matt Samitore, Parks and Public Works Director

MEETING DATE: August 12, 2021

SUBJECT: Resolution No. _____, Exercising the Power of Eminent Domain for the South Haskell Street Extension

ACTION REQUIRED: Resolution **RECOMMENDATION:** Approval

BACKGROUND INFORMATION:

The City as part of the 2008 Transportation System Plan, planned for the extension of South Haskell Street from West Pine to Beall Lane. The street has been fully planned and constructed except for a small portion that is currently outside of the city limits near Chicory Lane. The property is owned by Bob Quillen. The City has entered into negotiations with Mr. Quillen on purchase of his property. This resolution gives the ability to negotiate for his property and establishes that such negotiations are being conducted under the City's powers of eminent domain.

The City seeks to acquire the property in the current fiscal budget, 2021-23 with construction of the extension planned for the 2023-35 FY budget.

FINANCIAL ANALYSIS:

The recent appraisal of the property anticipates the cost at \$160,000. There are no current cost estimates for the actual street extension construction costs at this time. A copy of the appraisal will be available at the Council hearing.

LEGAL ANALYSIS:

The City has the power to exercise eminent domain. The proposed resolution adopts the City's intent to proceed under this authority, but does not require that the City proceed with litigation. The property owner and the City may negotiate a purchase of the subject property. In preliminary negotiations with the property owner, he has indicated he would be willing to accept the City's offer to purchase the subject property for the appraised value, on the condition that this purchase is subject to the City's powers of eminent domain as that expression of the City's intent via a formal resolution, may be beneficial to the property owner from a tax standpoint. City staff hopes to bring back the proposed purchase and sale agreement at the Council's meeting on August 26, 2021.

COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

City of Central Point 2040 Strategic Plan

Strategic Priority - Community Investment

GOAL 5 - Plan, design, and construct modern and efficient infrastructure in all areas and systems.

STRATEGY 1 – Continually update infrastructure plans.

STRATEGY 2 – Provide regular financial analysis on utility enterprise funds so infrastructure can be adequately maintained, restored, upgraded, and expanded.

STRATEGY 3 – Aggressively seek to capitalize on partnerships with Jackson County, the City of Medford, and the Oregon Department of Transportation to eliminate infrastructure deficiencies and build for the future.

STRATEGY 4 – Plan, design, and construct new public safety facilities (Police Station and East Side Substation) to meet the evolving needs of the community.

STRATEGY 5 – Continually invest in technology infrastructure that maximizes our efficiency and productivity.

STAFF RECOMMENDATION: Approve the resolution as presented.

RECOMMENDED MOTION: Approve Resolution _____ approving the resolution exercising the power of eminent domain for the South Haskell Street Extension.

ATTACHMENTS:

1. Reso Intent to Condemn_qulllen
2. 2020-09-03_S Haskell Topo Map_CN signed

RESOLUTION NO. _____

A RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN FOR THE SOUTH HASKELL STREET EXTENSION

Recitals:

A. The City of Central Point may exercise the power of eminent domain pursuant to City Charter and the Laws of the State of Oregon generally, when the exercise of such power is deemed necessary by the City’s governing body to accomplish public purposes for which City has responsibility.

B. The City has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.

C. The project known as the South Haskell Street Extension has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded.

D. To accomplish the project set forth above it is necessary to acquire the interests in the property depicted “Exhibit A” attached to this resolution and by this reference incorporated herein, and which shall also be legally described consistent with Exhibit “A”.

The City of Central Point resolves as follows:

Section 1. The foregoing statements of authority and need are, in fact, the case. The project for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury.

Section 2. The power of eminent domain is hereby exercised with respect to the interests in property described in Exhibit A. Such interest is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.

Section 3. The City’s staff and the City Attorney are authorized and requested to attempt to agree with the owner in interest as to the compensation to be paid for the acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the Council.

1. Resolution No. _____ (08/12/2021)

Attachment: Reso Intent to Condemn_quillen [Revision 1] (1444 : Resolution with intent to condemn - South Haskell Street Extension)

Section 4. The City expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

Passed by the Council and signed by me in authentication of its passage this _____ day of August, 2021.

Mayor Hank Williams

ATTEST:

City Recorder

Attachment: Reso Intent to Condemn_qulllen [Revision 1] (1444 : Resolution with intent to condemn - South Haskell Street Extension)

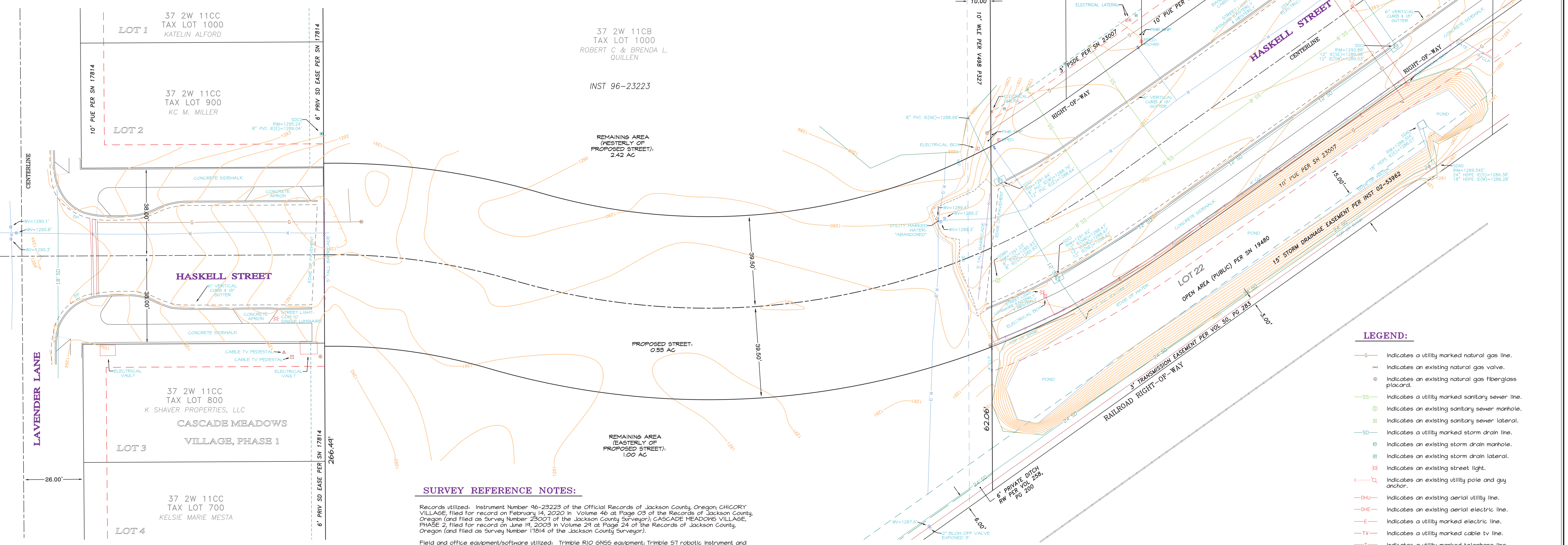
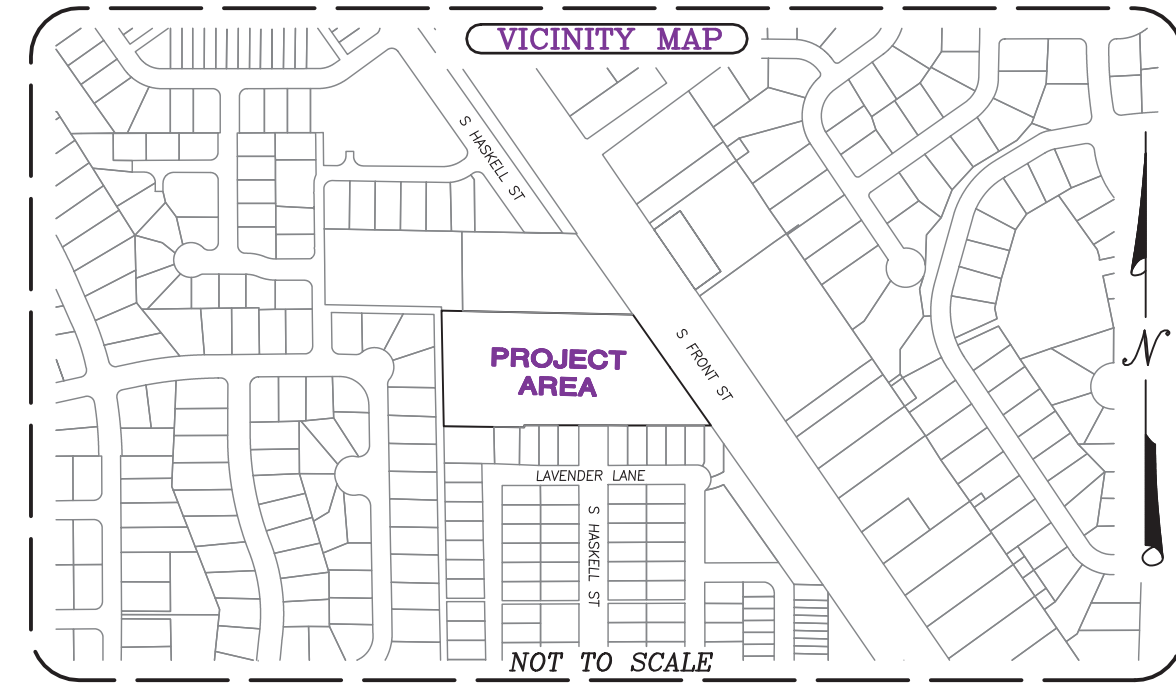
2. Resolution No. _____ (08/12/2021)

TOPOGRAPHIC MAP OF SURVEY

Located within Donation Land Claim No. 54 in the Southwest One-quarter of Section 11, Township 37 South, Range 2 West of the Willamette Meridian, in the city of Central Point, Jackson County, Oregon.

PREPARED FOR:

CITY OF CENTRAL POINT
140 South 3rd Street
Central Point, OR 97502



GENERAL SURVEY NOTES:

The property and right-of-way lines depicted hereon, are based on limited ties to found monuments and record subdivision plates. Said lines are approximate locations only and are not to be construed or utilized for their true locations.

Contours: 0.5-foot contour interval; 1-foot index contour interval.

All existing underground utilities, as depicted hereon, were located with reasonable accuracy, as marked on the ground by affected agencies and utility companies. Oregon Administrative Rules Chapter 452, Division 1, Definitions, 452-001-0010 (2), states: "reasonable accuracy" means location, within 24 inches, of the outside lateral dimensions of both sides of an underground facility.

SURVEY REFERENCE NOTES:

Records utilized: Instrument Number 96-23223 of the Official Records of Jackson County, Oregon; CHICORY VILLAGE, filed for record on February 14, 2020 in Volume 46 at Page 03 of the Records of Jackson County, Oregon (and filed as Survey Number 23007 of the Jackson County Surveyor); CASCADE MEADOWS VILLAGE, PHASE 2, filed for record on June 19, 2009 in Volume 24 at Page 24 of the Records of Jackson County, Oregon (and filed as Survey Number 17814 of the Jackson County Surveyor).

Field and office equipment/software utilized: Trimble R10 GNSS equipment; Trimble S7 robotic instrument and Trimble SX10 robotic instrument and scanner; Trimble TSC1 data collector with Trimble Access software; Trimble Business Center and Trimble Terramodel software.

Linear unit (horizontal): International Foot (ft).
Linear unit (vertical): U.S. Survey Foot (usft).
Vertical datum: North American Vertical Datum of 1988 (NAVD88).
Geodetic information:
Datum: North American Datum (NAD) of 1983 (2011) epoch 2010.00
System: Oregon Coordinate Reference System
Zone: Grants Pass-Ashland
Projection: Transverse Mercator
Latitude of grid origin: 41°45'00" N
Longitude of central meridian: 123°20'00" W
Northing at grid origin: 0.000 m
Easting at central meridian: 50,000,000 m (164,041,945 ft)
Scale factor on central meridian: 1.000 043 (exact)

All bearings and distances shown hereon are projected (grid) values based on the projection definition herein and above. This projection was utilized in order to minimize the difference between projected (grid) distances and horizontal (ground) distances at the topographic surface within the design area of this coordinate system.

The basis of bearings for this survey is Geodetic North. Note that the grid bearings shown or implied hereon do not equal Geodetic North due to meridian convergence.

Orthometric heights (elevations) are referenced to the NAVD88 datum.

This survey was conducted utilizing the Global Navigation Satellite System (GNSS) referenced to the National Spatial Reference System (NSRS). Static data that was obtained at an arbitrary base station using a Trimble R10, was submitted to the NSRS OPUS website. Utilizing the OPUS solution sets from said data, established NSRS and NAVD88 coordinates at said base station, thence utilized a second R10 and RTK methods to establish NSRS coordinates on primary control and certain found monuments. Said NSRS coordinates were projected onto the OCRS, Grants Pass-Ashland coordinate system.

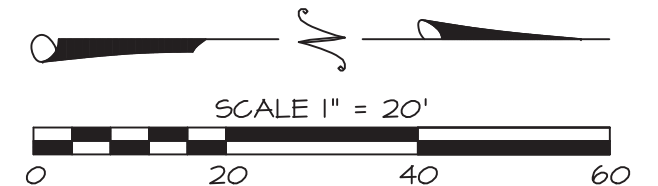
From said established primary control, utilized said S7, SX10 and TSC1 data collector to establish secondary and tertiary control, and to capture topographic data.

ABBREVIATIONS:

- EP= Indicates the edge of a paved surface.
- GB= Indicates a break in grade.
- HDPE= Indicates an existing high-density polyethylene pipe.
- INST= Indicates an instrument recorded by number pursuant to the Official Records of Jackson County, Oregon.
- PVC= Indicates an existing polyvinyl chloride pipe.
- SDAD= Indicates an existing storm sewer area drain.
- SDCI= Indicates an existing storm sewer curb inlet.
- SDCO= Indicates an existing storm sewer manhole.
- SDMH= Indicates an existing sanitary sewer manhole.
- SDMH= Indicates an existing sanitary sewer manhole.
- SN= Indicates a survey filed by number in the office of the Jackson County Surveyor.
- VOL PG= Indicates an instrument recorded by Volume and Page of the Deed Records of Jackson County, Oregon.
- WV= Indicates an existing water valve.
- N, NE, SW= Indicates a general direction: northerly, northeasterly, southwesterly, etcetera.

LEGEND:

- G— Indicates a utility marked natural gas line.
- H— Indicates an existing natural gas valve.
- Indicates an existing natural gas fiberglass placard.
- SS— Indicates a utility marked sanitary sewer line.
- Indicates an existing sanitary sewer manhole.
- |— Indicates an existing sanitary sewer lateral.
- SD— Indicates a utility marked storm drain line.
- Indicates an existing storm drain manhole.
- |— Indicates an existing storm drain lateral.
- X— Indicates an existing street light.
- Indicates an existing utility pole and guy anchor.
- OHU— Indicates an existing aerial utility line.
- OHE— Indicates an existing aerial electric line.
- E— Indicates a utility marked electric line.
- TV— Indicates a utility marked cable tv line.
- T— Indicates a utility marked telephone line.
- W— Indicates a utility marked water line.
- WV— Indicates an existing water meter.
- Indicates an existing water valve.
- Indicates an existing fire hydrant.
- W=1000'— Indicates the elevation of the top of a valve nut for a water valve.
- X— Indicates centerline of an existing fence line as noted hereon.



REGISTERED PROFESSIONAL LAND SURVEYOR
CAEL E. NEATHAMER
OREGON JULY 9, 2001
CAEL E. NEATHAMER 56545
Renewal Date 12/31/20

PREPARED BY: **Neathamer Surveying, Inc.**
3126 State St, Suite 203
P.O. Box 1584
Medford, Oregon 97501
Phone (541) 732-2869
FAX (541) 732-1382

PLOT DATE: September 3, 2020 PROJECT NUMBER: 09002-T-31

Sheet 1 of 1 © J.V. TH CN

ATTACHMENTS:

1. CAC Application Michael Meek_Redacted
2. CAC Application Ronald Woodhead_Redacted
3. CAC Application Tina Campbell_Redacted

City of Central Point, Oregon
140 S 3rd Street, Central Point, OR 97502
541.664.3321 Fax 541.664.6384
www.centralpointoregon.gov



Administration Department
Chris Clayton, City Manager
Deanna Casey, City Recorder
Elizabeth Simas, Human Resource Director

**APPLICATION FOR APPOINTMENT TO
CITY OF CENTRAL POINT COMMITTEE**

Name: Michael Meek Date: 7-8-2021

Address: ████ Mallory Ct. Central Point OR, 97502

Home Phone: _____ Business Phone: _____ Cell Phone: 541-████

Fax: _____ E-mail: ████@gmail.com

Are you a registered voter with the State of Oregon? Yes X No _____

Are you a city resident? Yes X No _____ If Yes, How long: 1987-2000 & 2007- current

Which committee(s) would you like to be appointed to: *(Please make sure the dates below work with your schedule before applying. Council and Planning Commission members are required to file an Annual Statement of Economic Interest to the State of Oregon.)*

Meeting Dates (All meeting dates are subject to change or additions, times vary for each committee):

- Budget Committee: Meetings vary in April Bi-Annually
- Citizens Advisory Committee: 2nd Tuesday of quarterly
- Planning Commission: 1st Tuesday of each month
- Parks and Recreation Committee/Foundation: Meeting dates vary

Employment, professional, and volunteer background: IBEW Union Rep, District Manager Oroweat Breads, Coached Pop Warner Football & Jr. Comet & Scenic Middle School wrestling

Community affiliations and activities: none

Previous City appointments, offices, or activities: none

Attachment: CAC Application Michael Meek_Redacted (1442 : Appointment to CAC)

Central Point Committee Application
Page 2

To provide additional background for the Mayor and City Council, please answer the following questions.

1. Please explain why you are interested in the appointment and what you would offer to the community. I have lived in C.P. most of my life and have raised 2 boys here. I love living in Central Point and the values of the community. I would like to be involved with the City and help keep it the best place to be in the Rogue Valley. I moved to C.P. in 3rd grade and continued all of my schooling in District 6, doing so have created a lot of friends and have a lot of family here and would like to help the City however possible.
2. Please describe what you believe are the major concerns of the City residents and businesses that this committee should be concerned about. The City and Valley are growing at a rapid rate, I value our community and history here and don't want to see it change to replicate Cities that people are trying to move away from. I think the City needs help in the restaurant industry, limited options but considering the last year I assume it was hard for anyone to want to start up a restaurant. Some of our streets are quickly becoming a bottle neck and it will continue to worsen. The parks around the City are great!! We have a lot of opportunity with them to have events.
3. Please provide any additional information or comments which you believe will assist the City Council in considering your application. I am 42, I'm married with 2 boys that are 22 and 17 and I am about to be a grandpa. I will be involved with little kids and sports once again as well as enjoying time with my wife going to events, recreating in the outdoors, or relaxing in a restaurant or pub for the evening. We have a great City and I would love to help it prosper.
4. Do you anticipate that any conflicts of interest will arise if you are appointed; and if so, how would you handle them? I would assume these positions always have conflict when you are representing people and their diverse concerns. I do this for a living and deal with it day in day out. I would take the conflict and appreciate the voice behind it and work for resolution on the matter.

Please feel free to use additional sheet if you have more information to help the Council make a final decision.

My signature affirms that the information in this application is true to the best of my knowledge. I understand that misrepresentation and/or omission of facts are cause for removal from any council, advisory committee, board or commission I may be appointed to. All information/documentation related to service for this position is subject to public record disclosure.

Signature: _____

Date: _____

7-8-21

City of Central Point, Oregon
140 S 3rd Street, Central Point, OR 97502
541.664.3321 Fax 541.664.6384
www.centralpointoregon.gov



Administration Department
Chris Clayton, City Manager
Deanna Casey, City Recorder
Elizabeth Simas, Human Resource Director

**APPLICATION FOR APPOINTMENT TO
CITY OF CENTRAL POINT COMMITTEE**

Name: Ronald J. Woodhead Date: 22 Jun 2021

Address: ████ Brandon St., Central Point, OR 97502-3701

Home Phone: - Business Phone: - Cell Phone: 814-████

Fax: - E-mail: ████@gmail.com

Are you a registered voter with the State of Oregon? Yes X No _____

Are you a city resident? Yes X No _____ If Yes, How long: 15 mo. (since Mar. 2020)

Which committee(s) would you like to be appointed to: *(Please make sure the dates below work with your schedule before applying. Council and Planning Commission members are required to file an Annual Statement of Economic Interest to the State of Oregon.)*

Meeting Dates (All meeting dates are subject to change or additions, times vary for each committee):

- Budget Committee: Meetings vary in April Bi-Annually
- Citizens Advisory Committee: 2nd Tuesday of quarterly
- Planning Commission: 1st Tuesday of each month
- Parks and Recreation Committee/Foundation: Meeting dates vary

Employment, professional, and volunteer background:

Retired since Sept. 2016. Age 67. My wife & I moved to CP in Mar. 2020 to be closer to 5 grandkids (3 here in CP + 2 in CA). Former municipal Parks & Recreation Director in Pennsylvania for 3 departments: (1) 1997-2016: Centre Region Council of Gov'ts. for 5 municipalities & 92,000 residents with cooperatively-funded operation & maintenance of 44 municipal parks, 2 outdoor pools, regional nature center, regional senior center & 3 new "regional parks." Located at State College, the home of Penn State Univ. (2) 1980-1997: Upper Moreland Twp. for the operation & maintenance of 16 municipal parks with diverse recreational facilities for 25,000 residents. (3) 1976-1980 Wellsboro Area Parks & Rec. 4 parks + pool for 13,000 residents.

Community affiliations and activities:

None yet locally (thanks largely to COVID restrictions), except frequent (masked) visits to local parks & playgrounds with the grandkids. In PA: Former President of the Mount Nittany Conservancy, Treas. for Main Line Fly Tyers Club, Treas. for Phila. Area Computer Society. Through 2016: Active member with the National Rec. & Park Assn. (plus CPRP & CPSI certifications) and the PA Rec. & Park Society. Regular conference presenter for those organizations regarding the processes of financing capital improvements, operations & programs.

Previous City appointments, offices, or activities:

None yet locally. In PA: Served as a Peer Consultant for PA Dept. of Conservation & Natural Resources to assist other municipalities to grow P&R opportunities.

Attachment: CAC Application Ronald Woodhead_Redacted (1442 : Appointment to CAC)

Central Point Committee Application
Page 2

To provide additional background for the Mayor and City Council, please answer the following questions.

1. Please explain why you are interested in the appointment and what you would offer to the community.

To assist & support community leaders with respect to maintaining the high quality of life in Central Point, exploring various service options and promoting community engagement. I enjoy working with community stakeholders to identify a path forward.

2. Please describe what you believe are the major concerns of the City residents and businesses that this committee should be concerned about.

To assist with maintaining the identity & individuality of Central Point, while acknowledging our role in the Rogue Valley. Maintaining safety & the quality of life in Central Point is a priority.

3. Please provide any additional information or comments which you believe will assist the City Council in considering your application.

My wife & I are very pleased to be homeowners in Central Point and appreciate the services provided by the City & regional entities. I would be honored to contribute to & assist with those efforts.
A complete resume and letters of reference are available if needed.

4. Do you anticipate that any conflicts of interest will arise if you are appointed; and if so, how would you handle them?

I have submitted Financial Disclosure Forms annually, as required by the Commonwealth of PA, for over 20 years. I would also refrain from providing any input on issues that involve our interests, or those that appear to involve personal interests.

Please feel free to use additional sheet if you have more information to help the Council make a final decision.

My signature affirms that the information in this application is true to the best of my knowledge. I understand that misrepresentation and/or omission of facts are cause for removal from any council, advisory committee, board or commission I may be appointed to. All information/documentation related to service for this position is subject to public record disclosure.

Signature: _____



Date: 22 June 2021 _____

Attachment: CAC Application Ronald Woodhead_Redacted (1442 : Appointment to CAC)

City of Central Point, Oregon
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541.664.3321 Fax 541.664.6384
www.centralpointoregon.gov



Administration Department
Chris Clayton, City Manager
Deanna Casey, City Recorder
Elizabeth Simas, Human Resource Director

**APPLICATION FOR APPOINTMENT TO
CITY OF CENTRAL POINT COMMITTEE**

Name: Tina Campbell Date: 6/17/2021

Address: ████ Sandra Lane, Central Point OR 97502

Home Phone: 541-████████ Business Phone: 541-████████ Cell Phone: 541-████████

Fax: _____ E-mail: ████████@gmail.com

Are you a registered voter with the State of Oregon? Yes X No _____

Are you a city resident? Yes X No _____ If Yes, How long: 3 yrs

Which committee(s) would you like to be appointed to: *(Please make sure the dates below work with your schedule before applying. Council and Planning Commission members are required to file an Annual Statement of Economic Interest to the State of Oregon.)*

Meeting Dates (All meeting dates are subject to change or additions, times vary for each committee):

- Budget Committee: Meetings vary in April Bi-Annually
- Citizens Advisory Committee: 2nd Tuesday of quarterly
- Planning Commission: 1st Tuesday of each month
- Parks and Recreation Committee/Foundation: Meeting dates vary

Employment, professional, and volunteer background:

Accountant - Fiscal Director at Southern Oregon Head Start, prior work experience includes corporate and public accounting for previous 20 years. Current volunteer with Every Child and prior volunteer with CASA, Little League and Boy Scouts of America.

Community affiliations and activities:

Volunteer for Every Child. Support of local businesses and artisans.

Previous City appointments, offices, or activities:

None

Attachment: CAC Application Tina Campbell_Redacted (1442 : Appointment to CAC)

Central Point Committee Application
Page 2

To provide additional background for the Mayor and City Council, please answer the following questions.

1. Please explain why you are interested in the appointment and what you would offer to the community.

I like living in a small community where business owners and neighbors take pride in their town. I both live and work in Central Point and really like the focus on community, small businesses and family that Central Point has. I would like to contribute to that focus and help the City of Central Point by listening to my neighbors, coworkers and friends and representing those citizens to the appointed leaders.

2. Please describe what you believe are the major concerns of the City residents and businesses that this committee should be concerned about.

I believe the biggest concern of residents is safety. Safety for their family from crime and safety for their home and property from both criminal elements as well as natural elements such as fire. Last year we all learned that Central Point didn't have an effective evacuation process in place. In addition to safety, I think we are all looking for ways to strengthen our local economy especially for small business by making sure they have plenty of patrons and that city imposed barriers are navigatable.

3. Please provide any additional information or comments which you believe will assist the City Council in considering your application.

I look forward to the opportunity to contribute to my community. You can't complain about wanting a better quality of life if you won't get out there and make it yourself.

4. Do you anticipate that any conflicts of interest will arise if you are appointed; and if so, how would you handle them?

No

Please feel free to use additional sheet if you have more information to help the Council make a final decision.

My signature affirms that the information in this application is true to the best of my knowledge. I understand that misrepresentation and/or omission of facts are cause for removal from any council, advisory committee, board or commission I may be appointed to. All information/documentation related to service for this position is subject to public record disclosure.

Signature: _____

Date: 6/17/2021 _____

Attachment: CAC Application Tina Campbell_Redacted (1442 : Appointment to CAC)



City of Central Point Staff Report to Council

ISSUE SUMMARY

TO:	City Council	DEPARTMENT:	Community Development
FROM:	Stephanie Holtey, Planning Director		
MEETING DATE:	August 12, 2021		
SUBJECT:	Planning Commission Report for the August 3, 2021 meeting.		
ACTION REQUIRED:	Information/Direction	RECOMMENDATION:	Not Applicable

The Central Point Planning Commission met at their regular meeting on August 3, 2021. There was one (1) discussion item on the agenda regarding draft regulations for mobile food vendors (File No. ZC-21003). At the conclusion of the meeting, updates were given on development and the City's Zoning Code Refresh project.

Mobile Food Vendor Code Amendments

Planning staff provided an overview of the existing and proposed regulations that would expand the allowance of mobile food vendors in the City to include all commercial zones, except the Employment Commercial (EC) zone because this is primarily located in the downtown along Pine Street. The proposed amendments would also allow mobile food courts subject to siting and operational standards, such as parking, utility hook-up requirements, etc. During the discussion it was noted that the Citizen's Advisory Committee (CAC) recommended in favor of the proposed amendments but noted that hours of operation, alcohol sales and impacts to brick and mortar businesses should be further vetted. Specifically the CAC wanted reduced hours of operation and to limit alcohol sales to mobile food courts only. Staff addressed these concerns in the Planning Commission draft and noted that legal notice is provided when new developments are subject to site plan and architectural review.

The Planning Commission members expressed support for the discussion draft and requested modifications to address potential conflicts in some of the draft standards, expanding available siting to include public and private property subject to landowner approval, and eliminating local restrictions on alcohol sales in favor of existing OLCC requirements. Staff will prepare changes and bring a revised draft for discussion at a future meeting. It is anticipated that a public hearing date will be set at that time.

Development Update

Staff provided an update on development activity during the month of July as illustrated in the attached map. It was noted that most of the current activity is preliminary and focused on the east side of town.

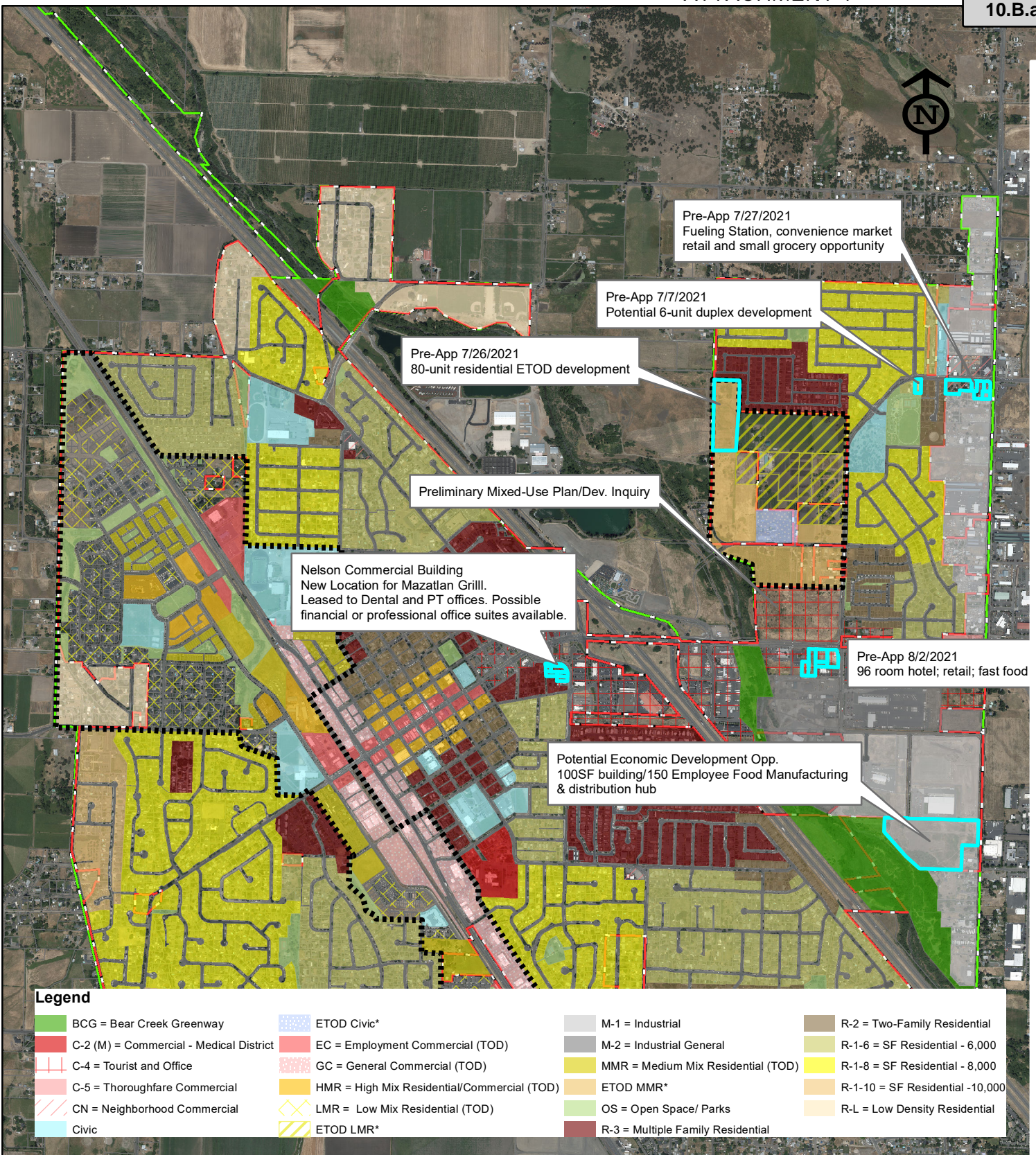
Zoning Code Update

A zoning code refresh is in the works to make the code more modern, efficient and user friendly.

Staff reported that the CAC was given a Zoning Code Basics article (attached) to provide a foundational level of understanding of the zoning code purpose, function and legal requirements before we formally start discussing the technical aspects of this project.

ATTACHMENTS:

1. Attachment 1 - July 2021 Development Update Map
2. Attachment 2 - Zoning Basics Article



Attachment: Attachment 1 - July 2021 Development Update Map (1446 : Planning Commission Report)



July 2021 Preliminary Development Meetings/Inquiry

Potential Project Location M

Zoning Basics

by Michael Chandler & Gregory Dale

Editor's Note: In the next few issues of the Planning Commissioners Journal we will be running several articles focusing on different aspects of zoning. As most new planning commissioners quickly learn, the local zoning code/ordinance – along with the municipal comprehensive plan – provides the framework for most local land use decisions.

In this issue, Planning Commissioners Journal columnists Mike Chandler and Greg Dale go over the basics of zoning. In our next issue, they will take a look at zoning and neighborhoods. As always, if you have a specific question about how your own community's zoning process operates, please consult with your planning director or legal counsel.

THE ORIGINS OF ZONING IN AMERICA

Regulation of buildings in America is as old as the founding of the country. President George Washington on October 17, 1791, for example, issued an order that only brick could be used within portions of what is now Washington, D.C. By 1822 an Act was adopted providing that within the then defined cities of Georgetown and Washington “no frame house intended to be occupied as a blacksmith's shop, factory, or livery stable, shall be erected within fifty feet of any stone or brick house” – not altogether different from the type of regulation found in a modern zoning code!¹

Early codes often, sensibly enough, focused on restricting use of combustible materials. But by the turn of the 19th century, local governments across the United States began to enact ordinances more broadly regulating where certain kinds of businesses could locate and the

¹ Our thanks to Lindsley Williams for informing us about Washington, D.C.'s early building regulations, described in Volume 52 of the Records of the Columbia Historical Society (1989)

ZONING REPRESENTS
A DEMOCRATIC METHOD
FOR SETTING THE
GROUND RULES FOR HOW
DEVELOPMENT CAN
OCCUR WITHIN THE
COMMUNITY.

maximum height of buildings. Examples include an 1885 ordinance regulating the location of laundries in Modesto, California; ordinances regulating building heights in Washington, D.C. in 1899 and Boston in 1904; and a 1909 Los Angeles ordinance governing where industrial plants could be built.

These early ordinances were enacted, in part, to address the social and economic challenges associated with immigration and the rise of the industrial age across much of America. The ordinances sprang from the police power provision embedded in the Constitution which allows government to exercise reasonable controls in order to protect the public health, safety, convenience, and welfare.

With this foundation in place, New York City adopted the nation's first comprehensive zoning ordinance in 1916. The ordinance classified various types of land uses, delineated zones (through a zoning map) and established height and bulk standards for buildings. Other cities followed New York's lead and subsequently adopted zoning ordinances for the purpose of guiding and managing growth. *The Emergence of Zoning*, p. 14

ZONING ENABLED

In 1922, the U.S. Department of Commerce, under the leadership of then Secretary Herbert Hoover, published the

Model Standard State Zoning Enabling Act. The Model Act – which was designed for adoption by states across the country – outlined the role and function of zoning, and set out uniform standards that localities could use to guide land development practices.

The national movement to adopt zoning got a big boost four years later (1926) when the United States Supreme Court ruled in *Euclid v. Ambler Realty* that zoning did not violate the due process clause of the federal constitution. The ruling resulted in the widespread adoption of zoning statutes across the nation. By 1940, zoning had become (and continues to be) the most common means of regulating local land use in the United States.

ZONING DEFINED

Zoning is a legislative process through which the local governing body (under power delegated it by the state zoning enabling law) divides the municipality into districts or zones, and adopts regulations concerning the use of land and the placement, spacing, and size of buildings. The primary goal of zoning is to avoid or minimize disruptive land use patterns involving incompatible land uses.



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The Emergence of Zoning

by Laurence C. Gerckens, AICP

American cities in the year 1900 were a hodgepodge of industrial, warehouse, commercial, and residential uses, frequently closely intermingled without rhyme or reason other than the characteristics generated by chance and individual advantage. It was not uncommon for a party to purchase a residential structure only to find it ringed by odoriferous uses that made occupancy of the structure untenable. Characteristics of entire neighborhoods often changed as uses moved in rapid succession.

The physical separation and isolation of dangerous, odoriferous, or unsightly practices, such as tar boiling, soap making, fat rendering, and dead carcass cremation, was viewed at that time as a reasonable governmental response to the unacceptable impositions of one otherwise legal activity upon another. Both the residences and these businesses had their right to exist, it was held, but not necessarily in close proximity to each other. Thus, the legal separation and isolation of land uses began, creating the foundations for many current zoning practices.

The New York Zoning Code of 1916, America's first "comprehensive" zoning code, relied on a "pyramidal" approach to permitted uses. That is, in the residence zone – considered the "highest" zone classification – nothing but residences were permitted. In the commercial zone, the next lower zone on the pyramid, commercial uses and residences were allowed. At the bottom of the pyramid were the industrial zones, where industrial and commercial and residential uses were all permitted. In effect, industrial zones were really unzoned for all uses.

In the 1920's a number of municipalities expanded on New York's single "residence" district by creating districts limited to development of single-family-detached homes only. The courts upheld these ordinances based on: (1) a public safety

rationale (i.e., the risk of fire would be reduced because there would be fewer buildings, located farther apart, housing fewer families per acre); and (2) the premise that single-family-detached residence districts would induce good citizenship through the encouragement of home ownership.

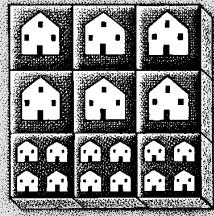
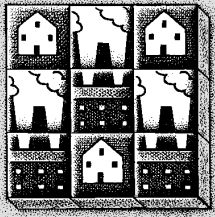
The public safety rationale was constitutionally sound as it was founded on physical conditions capable of being proven to bear a direct relationship to public health and safety – preventing the extreme congestion commonly associated with the practices of apartment and tenement house construction of that era.

However, the second premise, that single-family districts would foster good citizenship by encouraging home ownership, was based on a faulty presumption. It presumed that single family-detached homes would be owner-occupied. But this was not a requirement of single-family-only zoning districts. Moreover, as time would prove, the courts would not look favorably on attempts by municipalities to specify conditions of occupancy (rental, ownership, lease, etc.) in their zoning codes.

Even more significantly, the presumption that single-family-only districts would be solely occupied by home owners has not been borne out. Indeed, in many communities entire neighborhoods of new single-family-detached units have been built and marketed as rental units.

Today, the condominium row house (or townhouse) often represents the principal home ownership option, particularly for young couples and single parents. Ironically, the same arguments made decades ago in favor of public laws promoting single-family-only districts to encourage home ownership could well be marshaled today in favor of promoting townhouse-density attached-unit zoning!

Laurence Gerckens is national historian for the AICP. The above is excerpted from his articles, "American Zoning & the Physical Isolation of Uses" (in PCJ #15), "Single-Family-Only Zones" (in PCJ #23), and "Ten Successes that Shaped the 20th Century American City" (in PCJ #38).



Zoning Basics...

continued from page 13

Since the establishment and modification of zoning ordinances is legislative in nature, zoning represents a democratic method for setting the ground rules for how development can occur within the community. Zoning is constrained, however, by the Constitution's "takings" clause which requires compensation when private property is taken for a public use. [The impact of the "takings" clause is beyond the scope of this article; for a good overview, see "An Introduction to Takings Law" in PCJ #18 and available for downloading on plannersweb.com].

LINKING ZONING WITH PLANNING

Zoning depends on planning and planning depends on zoning. Neither can exist without the other. The comprehensive plan can be thought of as a roadmap which captures in pictures and words what a community wishes for itself. Although the plan will talk about land use, it does not regulate land use. This is the role of the zoning ordinance. In short, the comprehensive plan provides the public policy basis for drawing and applying the zoning districts which in turn control what happens on the land.

The subdivision ordinance is another planning tool that is closely linked with zoning. A subdivision ordinance regulates the division of land into building lots for the purpose of sale, development, or lease. The ordinance specifies procedures that are to be followed when land is divided and built upon. Standards governing the platting of building lots and planned improvements, such as roads and utilities, are common to most subdivision ordinances. When used in conjunction with the zoning ordinance and the comprehensive plan, the subdivision ordinance assures that the land development process is accomplished in an appropriate and consistent manner. See "An Introduction to Subdivision Regulations," in PCJ #5 and 6.

THE PURPOSES OF ZONING

It is important to bear in mind that local zoning authority is derived from

the state. Zoning enabling statutes set out – usually in quite general terms – what local governments can seek to accomplish through zoning. A typical state enabling law might include the following purposes:

1. Provide for adequate light, air, convenience of access, and safety from fire, flood, earthquakes, crime, and other dangers;
2. Reduce or prevent congestion in the public streets;
3. Facilitate the creation of a convenient, attractive, and harmonious community;



4. Facilitate the provision of adequate police and fire protection, transportation, water, sewerage, schools, parks, playgrounds, recreational facilities, and other public requirements;
5. Protect against the overcrowding of land and the undue density of population in relation to existing or available community facilities;
6. Encourage economic development activities that provide desirable employment and enlarge the tax base;
7. Provide for the preservation of agricultural, forested lands, and other lands significant to maintaining the natural environment;
8. Promote the creation and preservation of affordable housing;
9. Protect approach slopes and other safety areas of airports; and
10. Encourage the most appropriate use of land within the locality.

HOW ZONING WORKS

A zoning ordinance consists of two parts: a map (or series of maps) and text. The zoning map shows how the community is divided into different use districts or zones. Zoning districts common to most ordinances include residential, commercial, industrial, and agricultural. The zoning map must show precise boundaries for each district. Consequently, most zoning maps rely on street or property lines as district boundaries.

The zoning text serves two important

functions. First, it explains the zoning rules that apply in each zoning district. These rules typically establish a list of land uses permitted in each district plus a series of specific standards governing lot size, building height, and required yard and setback provisions. Second, the text sets forth a series of procedures for administering and applying the zoning ordinance. In most cases, the text is divided according to “sections” (or “articles”) for ease of reference. Most zoning

continued on page 16



Avoiding Spot Zoning

by Robert C. Widner, Esq.

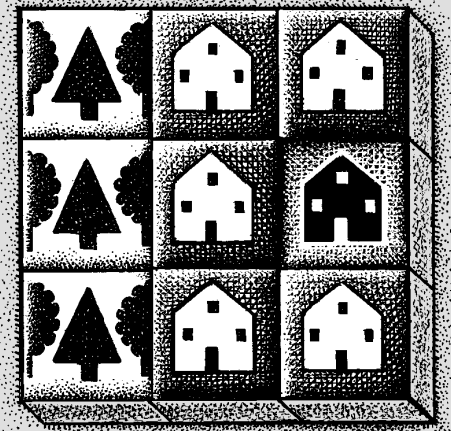
Most planning commissioners have heard the impassioned cry that a particular rezoning decision will constitute an invalid “spot zoning.” This allegation typically arises where the community is considering the rezoning of a single lot or small parcel of property held by a single owner and the rezoning will permit land uses not available to the adjacent property.

Because spot zoning often focuses on the single parcel without considering the broader context, that is, the area and land uses surrounding the parcel, it is commonly considered the antithesis of planned zoning. While rezoning decisions that only affect a single parcel or small amount of land are most often the subject of spot zoning claims (as opposed to rezonings of larger areas), a locality can lawfully rezone a single parcel if its action is shown to be consistent with the community’s land use policies.

Courts commonly note that the underlying question is whether the zoning decision advances the health, safety, and welfare of the community. A zoning decision that merely provides for individual benefit without a relationship to public benefit cannot be legally supported.

Although courts throughout the nation differ in their specific approaches when reviewing spot zoning claims, the majority consider:

1. the size of the parcel subject to rezoning;



2. zoning both prior to and after the local government’s decision;
3. the existing zoning and use of the adjacent properties;
4. the benefits and detriments to the landowner, neighboring property owners, and the community resulting from the rezoning; and
5. the relationship between the zoning change and the local government’s stated land use policies and objectives.

This last factor – the relationship of the rezoning decision to the community’s land use policies and objectives – is perhaps the most important one. As a result, when a planning commission (or governing body) initially considers a rezoning request it should determine whether the request is consistent with the comprehensive or master plan.

Robert C. Widner is an attorney with the Denver, Colorado, law firm of Gorsuch Kirgis LLP. He also holds a master’s degree in urban and regional planning. The above is excerpted from his article, “Understanding Spot Zoning,” in PCJ #13.

Zoning's "Achilles Heel"

by Susan G. Connelly, Esq.

Nonconforming uses and structures have been with us ever since zoning first emerged in the 1920's. Since that time, they have represented the "Achilles heel" of planning and zoning. The root of the problem is that nonconformities reduce the effectiveness of what a community is trying to accomplish through its comprehensive plan, as implemented by its local zoning regulations. The continued existence of nonconforming uses, for example, undermines what a community is seeking to achieve when it establishes specific allowable uses for a zoning district.

At the same time, communities – quite understandably – have been reluctant to call for the removal of ongoing businesses and existing structures, reflecting substantial financial investments, just because they fail to comply with current zoning requirements. The "solution" has been to subject nonconforming uses and structures to a diverse assortment of restrictions, all intended to hasten the day when the particular use or structure either "disappears" or comes into compliance with the existing zoning regulations.

The variety of nonconforming situations account for the difficulty in regulating them. Nonconforming uses in residential zoning districts can range from things such as tool sheds in small accessory buildings to bulk storage of gasoline or oil in large buildings suitable only for that specific use. Nonconforming uses can also involve uses in structures designed for conforming uses (such as a manufacturing operation occurring in an office building in a commercial zoning district) or uses in structures which may be adaptable to conforming uses (such as manufacturing in a factory building, in a multi-family residential district, which could be converted to apartments). Obviously, some of these uses are easier to eliminate than others.

As mentioned, zoning ordinances usually seek the eventual elimination of nonconforming uses and structures. This is primarily accomplished by: (1) limiting repair, restoration, additions, enlargements and alterations of the nonconforming structure or of the structure housing the non-

conforming use; and (2) restricting or prohibiting the expansion or change of the nonconforming use itself.

Most ordinances specify that once a nonconforming use is discontinued, it may not be resumed. These "abandonment" provisions usually only apply when the discontinuance of the use is "voluntary" – as opposed to when the use is discontinued during bankruptcy or foreclosure procedures. The zoning ordinance will also usually specify a minimum time period before a use is considered to be voluntarily abandoned. In some states, courts will also require proof of an intent to abandon the use.

"Amortization" provisions – through which the local government requires that the nonconforming use or structure be eliminated within a specified number of years – have had mixed results when challenged in court. While the topic of amortizing nonconformities is a complex one, a basic rule of thumb is that amortization provisions are more likely to be upheld when they involve simpler uses or structures whose value can be readily amortized over a few years. Courts will closely examine the extent to which an amortization provision would cause financial hardship or loss to the property owner. Thus, a provision affecting a nonconforming commercial or industrial business facility is much less likely to be upheld than one eliminating a nonconforming advertising sign or fence. Susan Connelly, AICP, is Vice President of Community Design for McStain Enterprises, Inc., a 35-year old "green" community developer and home builder based in Boulder, Colorado and is a member of the Boulder Urban Renewal Authority. Connelly practiced land use and real estate law in Illinois and Florida for 13 years. The above is excerpted from her article, "Non-Conforming Uses & Structures," in PCJ #2.

Zoning Basics...

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ordinances include the following:

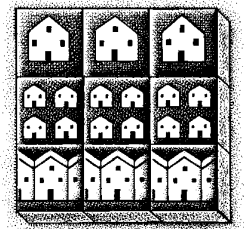
1. *Title, Authority and Purpose.* This section identifies the specific state enabling provision which empowers the locality to adopt zoning. It also spells out, in a "statement of purposes," the community's reasons for adopting the ordinance. The statement of purposes links the rules and regulations listed in the ordinance to the community's values and goals.

2. *General Provisions.* Topics covered in this section usually include definitions of terms used in the ordinance, and a description of the geographic or jurisdictional reach of the zoning ordinance. Definitions are especially important because the general public, as well as the courts, must be able to attach specific meaning to the words and concepts appearing in the ordinance.

With respect to jurisdictional reach, zoning ordinances will typically apply to the territory contained within the political subdivision; meaning the city, county, town, township, or village. In some cases, however, a zoning ordinance may reach beyond a locality's political boundaries. Such "extraterritorial" zoning is permissible if it is authorized by the enabling statute.

3. *Zoning Districts and Regulations.* This section of the ordinance is arguably the most important since it lists and defines each zoning district – as we have noted, the concept of districts stands at the core of zoning. Most zoning ordinances will include – at a minimum – residential, commercial, and industrial districts. Residential districts, in turn, are often broken down further into zones for single-family and multi-family dwellings of varying density.


Similar distinctions, based on intensity of use, are also often found in business and industrial districts (e.g., light industry versus heavy industry).



Other common types of zoning districts are agricultural, conservation, and institutional. Many communities have also crafted a wide variety of “mixed use” districts, allowing blends of uses in some parts of the community.

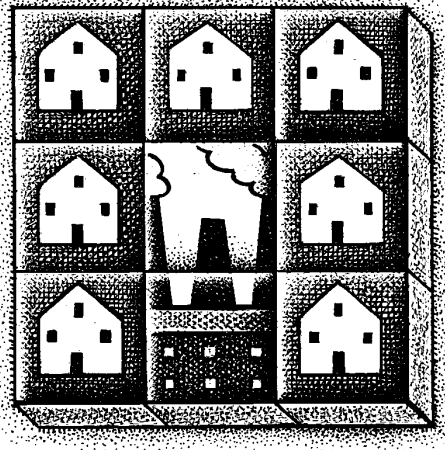
Many zoning ordinances include one or more special purpose zones addressing flood hazard areas, historic properties, and other specialized uses. These special zones are often applied as “overlays” – that is, those geographic areas subject to overlay zones are also within an “underlying” zoning district. For example, a property within a residential zone might also be located within a flood hazard zone. This property would be subject to the regulations of both the underlying zone (in this case, residential) and the overlay zone (flood hazard).


In addition to listing and defining zoning districts, this section of the zoning ordinance sets out rules for the use of land in each district. Most basic is the list of permitted versus special or conditional uses. If a use is deemed permitted (commonly referred to as a “by-right” or “matter-of-right” use), it need only meet the ordinance’s dimensional requirements (as described below) and any other “impact standards” (such as parking, landscaping, and signage standards; see point 5 below) to secure a zoning permit.

Other uses may be allowed within a district provided they are granted a special or conditional use permit. The terms special exception, special use, and conditional use permit generally have the same meaning; what term you’re familiar with depends on the state you live in. The zoning ordinance will set out the standards which must be met for granting such a permit.  *Special Permits.*

Finally, this section of the zoning ordinance includes, for each zoning district, basic development requirements. These primarily involve dimensional standards for setbacks and side yards, minimum lot sizes, and building heights.

4. *Nonconforming Uses, Structures, and Parcels.* When a zoning ordinance is



adopted some existing uses, structures, and parcels may not comply with the regulations of the zoning district in which they are located. These uses, structures, or parcels are then classified as “nonconforming.” While they are typically permitted to continue, their future expansion, reconstruction, or conversion is regulated by provisions set out in this section of the zoning ordinance.  *Zoning’s “Achilles Heel,”* p. 16.

5. *Impact Regulations.* Many zoning ordinances include a separate section (or sections) setting out a variety of “impact” regulations or standards. These might include, for example, parking standards, sign regulations, landscape requirements, urban design criteria, historic preservation standards, and various environmental criteria (such as requirements for tree plantings in new developments).

6. *Administration and Enforcement.* This section of the zoning ordinance spells out the duties of those involved in administering the ordinance – the zoning administrator, the governing body, the planning commission, and the board of zoning appeals or board of adjustment. Procedures to be followed when amending the zoning ordinance, as well as standards for assessing penalties and fines for zoning violators, are also included in this section.

WHO’S WHO IN ZONING

In order to make sense out of the zoning process, it is important to understand the players and their respective

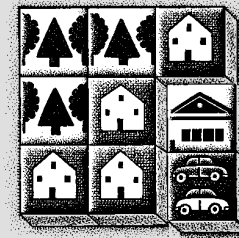
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Special Permits

by Neil Lindberg, Esq.

Special permits are approvals given to uses that meet certain standards or conditions which are listed in the local zoning ordinance. The conditions are often designed to ensure that the use will not adversely affect nearby existing uses. Special permits are commonly employed to protect residential neighborhoods against potentially disruptive uses – uses which might generate substantial amounts of noise, odor, or traffic, or which might in some other way be incom-



patible with the neighborhood. For this reason, uses such as gas stations and convenience stores often require special permits.

Local governments are also increasingly coming to require special permits for major development proposals. This allows the local government, typically through its zoning board, increased flexibility in examining the impacts of large-scale uses, and the ability to impose conditions to lessen adverse impacts. Projects such as shopping centers or office parks are particularly likely to require special permits.

Zoning ordinances must specify the standards by which the special permit application is to be reviewed. Some standards are narrow and fairly objective. For example, the special permit use might be required to maintain a minimum of 35 percent open space.

Standards that are too general are susceptible to challenge in court on the ground that they allow for arbitrary government action, violating individual due process rights. However, courts are becoming more liberal in reviewing special permit standards. There is much variation, nevertheless, and standards upheld in one community might well be struck down in another.

Neil A. Lindberg is an attorney and city planner. He is counsel to the Provo, Utah, Municipal Council and maintains a private practice focusing on planning, zoning, and land use law matters. The above is excerpted from his article, “Special Permits,” in PCJ #3.



Watch Out For ...

by Greg Dale

1. *When the legislative body is the final decision-maker on everything.* Many elected officials believe that they should have the final say on everything. Their theory is that they were elected and therefore the buck should stop with them. So, for example, many local governing bodies – in addition to acting on zoning ordinance changes – will hear appeals from decisions of the board of zoning appeals; act on conditional use permits and related decisions; and act on site plans.

However, problems can arise. First, when governing bodies act as appeals boards, they often do not perform this function very well. Frequently testimony that was taken by the zoning board of appeals (or planning commission) is reopened, and the matter becomes politicized. Most governing bodies simply are not well suited to act as quasi-judicial decision-makers. Since legislators most often function in an environment where all forms and channels of communication are anticipated, they are also at greater risk of either initiating or being drawn into inappropriate ex-parte communications. Finally, when local governing bodies are involved in administering regulations, they tend to lose sight of the larger policy issues.

2. *When the planning commission acts in a quasi-judicial role.* Planning commissioners should understand the difference between acting in an advisory capacity and in a quasi-judicial capacity. When the planning commission is making a recommendation to the legislative body on a zone change, for example, it is acting in an advisory capacity. However, in many communities the planning commission is also the final decision-maker on certain matters, such as subdivision plat, site plan, and conditional use/special permit approvals.

When acting in this quasi-judicial capacity, fact finding, evidence, and written findings become particularly important. In addition, certain ethical constraints – such as the avoidance of “ex-parte” contacts – come into play.

“Legislative” v. “Quasi-Judicial” Actions, p.19

3. *When planning commissions get caught up in minutiae.* Many planning commissions spend hours going through excruciating details on development proposals, dealing with items over which they have little discretion (at least if they follow the dictates of the zoning code). Particularly in communities with professional staff, there is no need for the planning commission to take on what is essentially a staff responsibility. A planning commission works best when it allows staff to make technical determinations, while focusing its attention on those matters which require discretionary decision making. Of course, this assumes the community has a good zoning code, with well-articulated standards, in place.

4. *When elected officials try to influence the planning commission recommendations.* It is all too common to find elected officials attending planning commission meetings and trying to influence the commission’s recommendations. This is perplexing, since one of the principal reasons for planning commission consideration of zoning amendments is to provide the elected officials with their best advice. It is counterproductive for elected officials to try to influence the “independent” advice that the planning commission is supposed to provide them.

5. *When zoning boards grant too many variances.* The consideration of variances is one of the most difficult jobs of a zoning board of appeals. Variances are an important “safety valve” in zoning, but are also often abused. Variances are intended to apply only in unusual circumstances where a literal interpretation of the zoning code creates a hardship, and then only pursuant to standards set out in the code.

The difficulty lies in how “hardship” is interpreted and how facts are considered relative to standards. A zoning board needs to clearly understand what must be proven before a variance can be granted. If the vast majority of variance requests are being granted, it is likely that either the zoning board is not requiring the level of proof required by the zoning regulations, or that the regulations need to be amended.

Zoning Basics...

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roles – and the types of decisions they are responsible for making.

The zoning process is similar to the balance of power that we all learned about in Civics class. In zoning, different bodies have different responsibilities that serve as a system of “checks and balances.” For the system to work efficiently each role must be played well by the respective body responsible for that role; conversely, it is important for individual bodies to not exceed their designated role.

There are four main types of decision-making functions in the zoning process: *legislative, advisory, administrative, and quasi-judicial.*

1. Legislative

The legislative function involves the adoption or amendment of the zoning regulations themselves. The local governing body is comprised of the elected officials in your jurisdiction. This may consist of a city council, county board or commission, village council, township trustees, and so forth. Note that the zoning map is considered to be part of the zoning regulations, which means that a zoning map amendment or “zone change” is a legislative act. In the vast majority of states only the governing body can approve either text or map amendments.

2. Advisory

Before adopting or amending the zoning text or map, the local zoning process will typically call for the planning commission to provide advice on the wisdom of any such adoption or revision. The commission will examine whether the zoning proposal is consistent with the goals and policies of the locality’s adopted comprehensive plan. *Avoiding Spot Zoning, p. 15.* Many planning commissions are also involved in drafting proposed zoning ordinances and amendments.

In any zoning adoption or amendment process the local governing body is likely to hear from a variety of “special interests” ranging from local

Editor's Note:



Legislative v. Quasi-Judicial Actions

The distinction between the “legislative” and “quasi-judicial” role of a planning commission is one many new planning commissioners are not familiar with. It can be an important distinction, however, because when a commission is acting in a “quasi-judicial” capacity, it typically must follow a range of procedural and ethical standards designed to ensure that property rights are respected. This is mandated by the Constitution’s due process clause.

Attorney Gary Powell provided a concise explanation of the two different roles in Issue #2 of the *PCJ*:

“A planning commissioner takes a ‘quasi-judicial’ role when engaged in determining the rights, duties, privileges, or benefits that relate to a specific property or property owner. This happens, for example, when a planning commissioner is called on to review a conditional use request for a specific parcel, or a subdivision plat. In contrast, the other role planning commissioners often assume involves dealing with ‘legislative’ type activities. This role is taken when a planning commissioner is engaged in recommending standards that have a general and uniform operation, and which are ultimately decided by the local legislative body. For example, when the planning commission is working on a proposed zoning ordinance that will go to the legislative body for final approval, the planning commissioner is engaging in what is considered to be legislative-type [or advisory] activity.”

A more thorough discussion of procedural safeguards (such as adequate notice, the opportunity to be heard and present evidence, and written decisions supported by reasons and findings of fact) needed when a planning commission is acting in a quasi-judicial capacity can be found in Dwight Merriam and Robert Sitkowski’s article, “Procedural Due Process in Practice,” in *PCJ* #33. For a review of the various ethical issues facing planning commissions in their decision making, see Greg Dale’s collected ethics columns in “Taking A Closer Look: Ethics” available from the *Planning Commissioners Journal*.

homeowners and neighbors to builders and developers. These groups are a natural and important part of the process; however, it is equally important to have the independent voice of a planning commission that is focused on the long range public interest of the community as a whole.

3. Administrative


It is sometimes surprising for new planning commissioners to learn that the majority of decisions made in the zoning process are actually made at the administrative level by staff planners, zoning officers, or other municipal employees.

Non-discretionary standards such as lot size, lot width, setbacks, building height, permitted uses, sign height and size, and parking lot standards, can be administered by staff without the need for review by planning commissions or legislative bodies. These decisions often take the form of zoning certificates and certificates of occupancy, and are frequently made as part of the building permit process.

4. Quasi-judicial

No zoning code is perfect, nor can all potential circumstances be anticipated. For that reason, several “safety valves” are built into the zoning process. First, there are occasions when an interested party may simply disagree with the way in which the administrative staff has interpreted the zoning regulations. Second, there are instances where the strict application of zoning regulations creates an unfair situation to a property owner.

Typically, as part of the zoning process, a board is designated to hear appeals and consider variance requests. This board is usually referred to as either the “board of zoning appeals,” “board of adjustment,” or some similar title. It generally acts in a “quasi-judicial” capacity because in most states and communities its decision is final (subject only to appeal in the local court system). This means that zoning board decisions must be based on specific factual evidence, and include written findings of fact to support the decision.

Planning commissions in many states sometimes also act in a “quasi-judicial” capacity.  For more on this, see point 2 in the “Watch Out For” sidebar p. 18.

SUMMING UP:

Treatises have been written on zoning. In fact, your planning department or municipal attorney’s office may well have one or more of them. Given the constraints of time and space, we have necessarily focused on some of the more basic aspects of zoning (and despite state to state differences, zoning is remarkably similar nationwide). By at least having an understanding of the basics of zoning – and of who’s who in the zoning universe – you should have a better feel for your job as a planning commissioner or zoning board member. In the next issue of the *Planning Commissioners Journal*, we’ll take a closer look at a constellation of issues related to “zoning and neighborhoods.” ♦

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He is also a former President of the Ohio Chapter of the American planning Association.

Michael Chandler is Professor and Community Planning Extension Specialist at Virginia Tech in Blacksburg, Virginia. Chandler also conducts planning commissioner training programs across the country, and is a frequent speaker at workshops. His column appears in each issue of the Planning Commissioners Journal.

