

**AGENDA SEASIDE CITY COUNCIL MEETING
APRIL 26, 2010 7:00 PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF AGENDA
5. PROCLAMATION – SILVER STAR BANNER DAY
6. COMMENTS – PUBLIC
7. DECLARATION OF POTENTIAL CONFLICT OF INTEREST
8. CONSENT AGENDA
 - a) PAYMENT OF THE BILLS - \$267,889.65
 - b) APPROVAL OF MINUTES – APRIL 12, 2010 REGULAR MINUTES
9. PUBLIC HEARING – ORDINANCE 2010 – 01 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE, OREGON, PURSUANT TO ORS 223.112.223.132, SETTING A PUBLIC HEARING, EXTENDING THE TERM OF THE ASSESSMENT DISTRICT FOR ECONOMIC IMPROVEMENT, KNOWN AS THE “DOWNTOWN MAINTENANCE DISTRICT”; REPEALING ORDINANCE NO. 2009-02, AND ALL ORDINANCES IN CONFLICT
 - OPEN PUBLIC HEARING
 - CLOSE PUBLIC HEARING
 - COUNCIL COMMENTS
 - MOTION FOR FIRST READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
 - MOTION FOR SECOND READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
10. UNFINISHED BUSINESS:
 - a) ORDINANCE 2010-02 – AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING CHAPTER 150 AND 159 OF THE SEASIDE CODE OF ORDINANCES REGARDING BUILDING REGULATIONS AND ABATEMENT OF DANGEROUS BUILDINGS - THIRD AND FINAL READING
 - OPEN PUBLIC COMMENTS
 - CLOSE PUBLIC COMMENTS
 - COUNCIL COMMENTS
 - MOTION FOR THIRD READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
 - MOTION TO ADOPT – ROLL CALL VOTE

11. NEW BUSINESS:
 - a) LIQUOR LICENSE APPLICATION – TSUNAMI SANDWICH COMPANY, 11 BROADWAY STREET
 - b) ANNUAL REPORT – CLATSOP ECONOMIC DEVELOPMENT RESOURCES PERFORMANCE UPDATE, RICK GARDNER
 - c) UPDATE – SEASIDE FIRE DEPARTMENT ANNUAL REPORT
 - d) VACANCY – CITY TREE BOARD
AIRPORT COMMITTEE
12. COMMENTS FROM THE STUDENT REPRESENTATIVE
13. COMMENTS FROM THE COUNCIL
14. COMMENTS FROM THE CITY STAFF
15. ADJOURNMENT

Complete copies of the Current Council meeting Agenda Packets can be viewed at: *Seaside Public Library and Seaside City Hall.*

All meetings other than executive sessions are open to the public. When appropriate, any public member desiring to address the Council may be recognized by the presiding officer. Remarks are limited to the question under discussion except during public comment. This meeting is handicapped accessible. Please let us know at 503-738-5511 if you will need any special accommodation to participate in this meeting.

CITY of SEASIDE

OREGON'S
FAMOUS
ALL-YEAR
RESORT

989 BROADWAY
SEASIDE, OREGON 97138
(503) 738-5511

PROCLAMATION

Whereas, the City of Seaside in the State of Oregon, has always honored the sacrifice of the men and women in the Armed Forces; and

Whereas, the Silver Star Families of America was formed to make sure we remember the blood sacrifice of our wounded and ill by designing and manufacturing a Silver Star Banner and Flag; and

Whereas, to date the Silver Star Families of America has freely given thousands of Silver Star Banners to the wounded and their families; and

Whereas, the members of the Silver Star Families of America have worked tirelessly to provide the wounded of this City and Country with Silver Star Banners, Flags and care packages; and

Whereas, the Silver Star Families of America's sole mission is that every time someone sees a Silver Star Banner in a window or a Silver Star Flag flying, that person will remember the sacrifices that were made for this City, State, and Nation.

NOW, THEREFORE, I, Don Larson, Mayor of the City of Seaside, in the State of Oregon, do hereby proclaim May 1, 2010 as

"SILVER STAR BANNER DAY"

in Seaside and declare my appreciation for the Silver Star Families of America and honor their commitment to our wounded Armed Forces members.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Seaside to be affixed this 26th day of April, 2010.



DON LARSON, MAYOR

CALL TO ORDER

The Regular meeting of the Seaside City Council was called to order at 7:00 PM by Mayor Don Larson.

Present: Mayor Don Larson, Council President Tim Tolan, Councilors Stubby Lyons, Don Johnson, Larry Haller, and Jay Barber.

Absent: Councilor Dave Moore

Also Present: Mark Winstanley, City Manager; Bob Gross, Seaside Police Chief; Neal Wallace, Public Works Director; Kevin Cupples, Planning Director; Bob Mitchell, Building Official; Max Milander, Seaside High School Representative; Jeremy Ruark, Seaside Signal; and Nancy McCarthy, Daily Astorian.

AGENDA

Mayor Larson asked to have an addition added to the agenda, item (11) (c) Bid - Downtown Landscape Maintenance District.

Motion to approve the April 12, 2010, agenda, as amended; carried unanimously. (Haller/Johnson)

PROCLAMATION

Councilor Lyons read a Proclamation on Arbor Week.

Neal Wallace, Public Works Director, stated there would be a Tree City Ceremony Tuesday, April 13, 2010, 3:00 pm, at the North end of the new Sidewalk Project.

COMMENTS – PUBLIC

Donn Bauske, 322 S. Holladay, Seaside, stated he had sent Council a letter about the System Development Charges. Mr. Bauske came before the Council two years ago when the discussion was affordable housing. Mr. Bauske asked Council if they would consider a reduction or change in the System Development Charges to help contractors in the City build affordable housing.

Mayor Larson asked if Mr. Bauske were speaking only about affordable housing.

Mr. Bauske stated he was discussing affordable housing because the low end paid as much as the high end in System Development Charges. Mr. Bauske asked if Council was willing to look over the charges and consider a change, or a flat out reduction for affordable housing when building under \$250,000.00. The charges could also be waived like other City's were doing for the simple reason that nothing was getting built. Mr. Bauske further stated the Seaside Building Department records showed only one house had been built and one permit issued for 2010. There were six permits at this time for 2009 and housing was not even being sustained. Mr. Bauske asked if Council was going to consider changing the charges.

Mayor Larson stated the System Development Charges were based on actual uses and needs and were not arbitrarily changed without a study to see what the future needs were.

Mr. Bauske stated if Council wanted affordable housing or lower end housing the City would need to give some kind of slack or nothing would be built. Mr. Bauske stated the question was would Council consider the suggestions that had been brought up in the letter he had sent.

Councilor Barber stated he needed time to review the information in Mr. Bauske's letter and there were decreases in building all across Oregon not just Seaside because of the recession and the economy. Councilor Barber further stated there were interesting issues raised in the letter and as a Councilor would consider the suggestions.

Mark Winstanley, City Manager, stated System Development Charges were not set arbitrarily. A consultant had reviewed the capital construction plan for the next twenty years. To determine what needs the systems would require for the future was based on the City's capital improvement program. The capital construction plan then established what kind of fees would be necessary from increased growth in order to support that plan.

Mr. Bauske stated affordable housing went through the City Council two years ago and nothing had ever been done. Mr. Bauske further stated he was asking if Council was going to consider the suggestions.

Mayor Larson stated there were a couple of things done with apartments in town.

Mr. Bauske stated that was subsidized housing and not affordable housing. Mr. Bauske further stated he would build to sale or rent but generally did not sale the places he built. Mr. Bauske further stated he could not build and rent places if it was not economical. Mr. Bauske further stated there were houses being built in the area by Adair Homes and not one local contractor was hired.

Mr. Winstanley further stated financially the Building Department had collected more money in Building permits this fiscal year compared to all of last fiscal year.

Mayor Larson stated Council had very thoroughly conducted several work sessions to establish the System Development Charges based on the Capital Improvement Plan. Mayor Larson asked Council what they wished to do.

Councilor Johnson stated at the time the System Development Charges were implemented the economy was very strong. The information could be reviewed for the building economics of the community.

Mr. Winstanley stated the last increases took place September or October of 2008.

Councilor Lyons stated building had been going pretty well in Seaside a couple of years ago compared to now.

Mayor Larson asked if there were changes made then what would happen to the people who had already built.

Councilor Lyons stated as a group that would need to be discussed.

Council President Tolan stated there could be a work session to discuss the information.

Neal Wallace, Public Works Director, stated he would contact the consultant who had worked on the System Development Charges and find out how the request could be handled as far as legalities were considered.

CONFLICT

Mayor Larson asked whether any Councilor wished to declare a conflict of interest.

No one declared a conflict of interest.

CONSENT AGENDA

Motion to approve payment of the bills in the amount of \$870,160.28; March 22, 2010, Minutes; Resolution #3697- A Resolution Adopting and Appropriating Supplemental Budgets of Less than 10 percent to the 2009-2010 City of Seaside Budget; and Resolution #3698 – A Resolution Adopting and Appropriating Supplemental Budget of Less than 10 percent to the 2009-2010 Seaside Road District Budget; carried unanimously. (Tolan/Lyons)

PUBLIC HEARING –

This was the duly advertised time and place to hold a public hearing regarding adopting and appropriating supplemental budgets of more than 10 percent to the 2009-2010 Seaside Road District Budget.

Mr. Winstanley explained supplemental budgets had a tendency to be housekeeping issues and in this case the City was truing up some of the budgets to what the beginning balances were. There were four funds going through closure and the budgets were being adjusted for the closure of those funds. The budgets were at a level greater than 10 percent and greater than 10 percent required the City had a public hearing and approval by Council.

RESOLUTION #3699

A RESOLUTION OF THE CITY OF SEASIDE, OREGON, ADOPTING AND APPROPRIATING SUPPLEMENTAL BUDGETS OF MORE THAN 10 PERCENT TO THE 2009-2010 SEASIDE ROAD DISTRICT BUDGET

Mayor Larson opened the public hearing.

Merlin Humpal, 2481 Oregon Avenue, Seaside, stated he was not sure that he understood because he had not reviewed the facts that the City published. Cities all over the Country, States, and National were having financial problems and some were bypassing rate increases, or had to lay people off. Mr. Humpal asked what the status of Seaside was.

Mayor Larson stated the question did not apply to the resolution but there were Budget Committee meetings coming in May and that was the time to ask the question.

There were no other public comments and the Mayor closed the public hearing.

Mayor Larson asked for Council comments, there were no Council comments.

Motion to read Resolution #3699 by title only; carried unanimously. (Haller/Johnson)

Motion to adopt Resolution #3699; carried unanimously. (Haller/Lyons)

ORDINANCE #2010-02

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING CHAPTER 150 AND 159 OF THE SEASIDE CODE OF ORDINANCES REGARDING BUILDING REGULATIONS AND ABATEMENT OF DANGEROUS BUILDINGS

Mr. Winstanley explained there had been changes made with the State Statutes which dealt with the penalty phases Building Officials needed to handle and many of the penalties were no longer cited into Municipal or Judicial Court and were handled instead administratively. The Ordinance changed the wording to allow for administrative decisions to be made compared to judicial decisions to be made.

Mayor Larson asked for public comments.

Mr. Bauske stated the City should follow the mandated Senate Bill. The Ordinance had the City Manager being the person to appeal but the Senate Bill clearly called for a Municipal Appeals Board and Appropriate Advisory Board to hear the hearing appeals. Basically the City chopped up an Ordinance but the enforcement part had to follow the mandated Senate Bill. Mr. Bauske further stated Section 3 (B) basically stated whether or not a permit was issued a person could be sited. A person was sited for not obtaining having a permit. Basically the Ordinance needed to go back and be redrafted.

Bob Mitchell, Building Official, stated the City did have an appeals board. Staff had discussed the information with Dan Van Thiel, City Attorney, and the City Attorney had agreed with the information that had been added to the Ordinance. The information was also consistent with what Cannon Beach and the Tri-County area had adopted.

Mr. Winstanley stated the Ordinance dealt with the penalty phase of the issue and the City often borrowed language from the League of Oregon Cities and other City's in order to create the Ordinances that had already been tested by other City's and jurisdictions.

Mayor Larson asked for Council comments, there were no Council comments.

Motion to place Ordinance 2010-02 on its first reading by title only; carried unanimously. (Haller/Johnson)

Motion to place Ordinance 2010-02 on its second reading by title only; carried unanimously. (Haller/Johnson)

**UPDATE –
WWTP PROJECT
IMPROVEMENT**

Mr. Wallace stated the Seaside Waste Water Treatment Plant (WWTP) was in need of renovations. There were renovations needed because age was taking a toll on the plant, other renovations needed were being mandated by the State and Federal Government, and other renovations were simply needed to improve operational capabilities. The following projects with approximate costs included for Council's consideration: Outfall Project, \$1,200,000.00; Lift Station Electronics and Controls, \$500,000.00; Automated Lime System, \$350,000.00; Generator for Plant, \$350,000.00; Lift Station #3 Pump Project, \$165,000.00; Land Purchase near City Farm, \$135,000.00; and Collection System Master Plan, \$250,000.00. Mr. Wallace further stated the outfall project was the Department of Environmental Quality (DEQ) mandated project and was currently being engineered. Application had already been made for the permits that would be required by the Division of State Lands and the Corps of Engineers. The lift station electronics and controls project had been engineered and was waiting for funding to go out to bid. The project was very important because failing control systems on the lift stations had already caused the City to be fined over \$10,000.00. The automated lime system was needed to replace the archaic and dangerous process of hand mixing lime. Lift station #3 was the City's main lift station and was in need of new pumps to replace the existing twenty-four year old units. A generator would allow full function of the sewer plant and lab building during a power outage. The land purchase would help the City with the bio-solids application and add approximately eleven acres to the existing farm. The last collection system planning was completed in the early 1980's.

Councilor Barber stated he had spent a stimulating afternoon taking a tour of the City Facilities like the Waterworks, Water Treatment Plant, and Waste Water Treatment Plant. The facilities were fascinating and outdated and yet the staff was very creative in the operation of the facilities.

**BID – DOWNTOWN
LANDSCAPE
MAINT. DISTRICT**

Mr. Wallace stated bids for the Downtown Maintenance: Landscape Maintenance District project were accepted on April 9, 2010. There was one bid received from Nature's Helper, for \$39,930.00 annually, with a three percent increase annually for the cost of living and cost of materials. Staff recommended accepting the bid from Nature's Helper.

Motion to accept the Downtown Maintenance: Landscape Maintenance District project bid in the amount of \$39,930.00 annually, with a three percent increase annually; carried unanimously. (Lyons/Johnson)

**COMMENTS - STUDENT
REPRESENTATIVE**

Max Milander, Seaside Student Representative, stated the Seaside School District was going to lose \$1,200,000.00 for next year which was taking a toll on all involved. The faculty and students moral had dropped. Next year Seaside High School had two teachers that were being moved to Broadway Middle School and Neal Branson who was a Councilor at Seaside High School had his position cut. The student body was trying to get through the crisis and was hoping the change would not be permanent.

COMMENTS – COUNCIL

Councilor Tolan stated he had attended the Community Gardens Ceremony which was very well attended.

Mayor Larson reminded Council there would be a workshop, April 28, 2010, at 3:00 PM, to discuss street standards.

COMMENTS – STAFF

Bob Gross, Seaside Police Chief, reminded Council that this week was National Telecommunication week and while Police Officers were the visible responders that were seen when calling for assistance the dispatchers were the first voice heard and needed to be thanked.

Kevin Cupples reminded Council that April was Earthquake and Tsunami Month with many activities going on.

Mr. Winstanley stated the City would be testing the Emergency Public Address System on April 28, 2010, at 10:00 am. There would not be any sirens.

ADJOURNMENT

The regular meeting adjourned at 7:59 PM.

Kim Jordan, Secretary

DON LARSON, MAYOR

CITY of SEASIDE

OREGON'S
F A M O U S
A L L - Y E A R
R E S O R T

989 BROADWAY
SEASIDE, OREGON 97138
(503) 738-5511

March 26, 2010

DEAR PROPERTY OWNER,

Enclosed is a proposed Ordinance of the City Council of Seaside, to renew the Downtown Maintenance District, at a linear foot rate of \$7.781695 per front foot for one year. **This is a 5.8% increase over last year.**

A joint effort of City Council, City Staff, and a Committee consisting of downtown merchants established the current program for maintenance of the downtown core area.

Funds generated by this District pay the contractors for litter removal and sweeping the sidewalks, and a separate contract for maintaining the planting areas, including replacement plants.

The City Council will hold a public hearing on this issue at the April 26, 2010, meeting to be held at City Hall, 989 Broadway, at 7:00 PM.

If you have any questions, please call me at (503) 738-5511.

Sincerely,



Mark J. Winstanley
City Manager

MJW:kj
Enclosure

PROPOSED DOWNTOWN MAINTENANCE DISTRICT

Assessment - \$7.781695 /front foot

July-10

LOT	PROPERTY OWNER/ADDRESS	FRONT FOOTAGE	AMOUNT
61021AC			
100	PTL Enterprises Inc. 5809 Jean Rd. Lake Oswego, OR 97035 Acct. 11733	545 Broadway 372.4	2,897.90
401	Gary T.& Jane E. Lorge PO Box 382 Seaside, OR 97138 Acct. 11734	521 Broadway 27.6	214.77
500	Douglas R. Wiese - Trustee 89082 Manion Dr. Warrenton, OR 97146 Acct. 11735	505 Broadway 24.2	188.32
600	Douglas R. Wiese - Trustee 89082 Manion Dr. Warrenton, OR 97146 Acct. 11736	81.0	630.32
700	Douglas R. Wiese - Trustee 89082 Manion Dr. Warrenton, OR 97146 Acct. 11737	505 Broadway 103.0	801.51
800	Terry M/C.L. Lowenberg 3457 Hwy. 101 N Seaside, OR 97138 Acct. 11738	415 Broadway 134.0	1,042.75
900	Terry M/C.L. Lowenberg 3457 Hwy. 101 N Seaside, OR 97138 Acct. 11739	411 Broadway 21.2	164.97
1000	Beach Development 3457 Hwy. 101 N Seaside, OR 97138 Acct. 11740	407-409 Broadway 24.3	189.10
1100	Pig 'N Pancake PO Box 9 Seaside, OR 97138 Acct. 11741	30.7	238.90
1200	Pig 'N Pancake PO Box 9 Seaside, OR 97138 Acct. 11742	23.6	183.65
1300	Pig 'N Pancake PO Box 9 Seaside, OR 97138 Acct. 11743	323 Broadway 44.9	349.40
1400	Blue Goose Properties/KLB Enterprises LLC PO Box 1067 Seaside, OR 97138 Acct. 11744	319 Broadway 25.5	198.43
1500	Blue Goose Properties, LLC PO Box 1067 Seaside, OR 97138 Acct. 11745	317 Broadway 20.3	157.97
1600	Dale O.& Mary E. Fackrell 11311 SE Idleman Portland, OR 97266 Acct. 11746	311 Broadway 58.0	451.34

61021AC			
1700	DMT Development LLC PO Box 23 Seaside, OR 97138	Acct. 11747	48.5 377.41
1800	DMT Development LLC PO Box 23 Seaside, OR 97138	227 Broadway Acct. 11748	42.0 326.83
1900	DMT Development LLC PO Box 23 Seaside, OR 97138	227 Broadway Acct. 11749	10.9 84.82
2000	Steve C. Phillips DBA Phillips Candies 217 Broadway Seaside, OR 97138	217 Broadway Acct. 11750	33.5 260.69
2001	Maginnis Seaside Enterprise LLC 220 NW 2nd Avenue Suite 1000 Portland, OR 97208	300 Avenue 'A' Acct. 11751	104.0 809.30
2002	Maginnis Seaside Enterprise LLC 220 NW 2nd Avenue Suite 1000 Portland, OR 97208	Acct. 11752	76.0 591.41
2003	TDR Enterprises, Inc. PO Box 23 Seaside, OR 97138	Acct. 11753	30.0 233.45
2005	Michael & Mary Davies 89905 Manion Dr. Warrenton, OR 97146	261 S Columbia Acct. 11755	144.5 1,124.45
2006	TDR Enterprises, Inc. PO Box 23 Seaside, OR 97138	Acct. 11756	178.1 1,385.92
2007	TDR Enterprises, Inc./Seaside Bowling Alley, Inc. PO Box 23 Seaside, OR 97138	215 Broadway Acct. 11758	63.0 490.25
2100	Seaside Lodge #1748 BPOE 324 Avenue A Seaside, OR 97138	Acct. 11761	162.4 1,263.75
2200	Seaside Lodge #1748 BPOE 324 Avenue A Seaside, OR 97138	Acct. 11762	117.4 913.57
2400	Pig N' Pancake PO Box 9 Seaside, OR 97138	112/112 1/2 Franklin Acct. 11764	37.2 289.48
2500	Qwest Corporation 1801 California St. #2500 Denver, CO 80202	Acct. 11765	213.0 1,657.50
2601	TDR Enterprises PO Box 23 Seaside, OR 97138	Acct. 11767	150.0 1,167.25

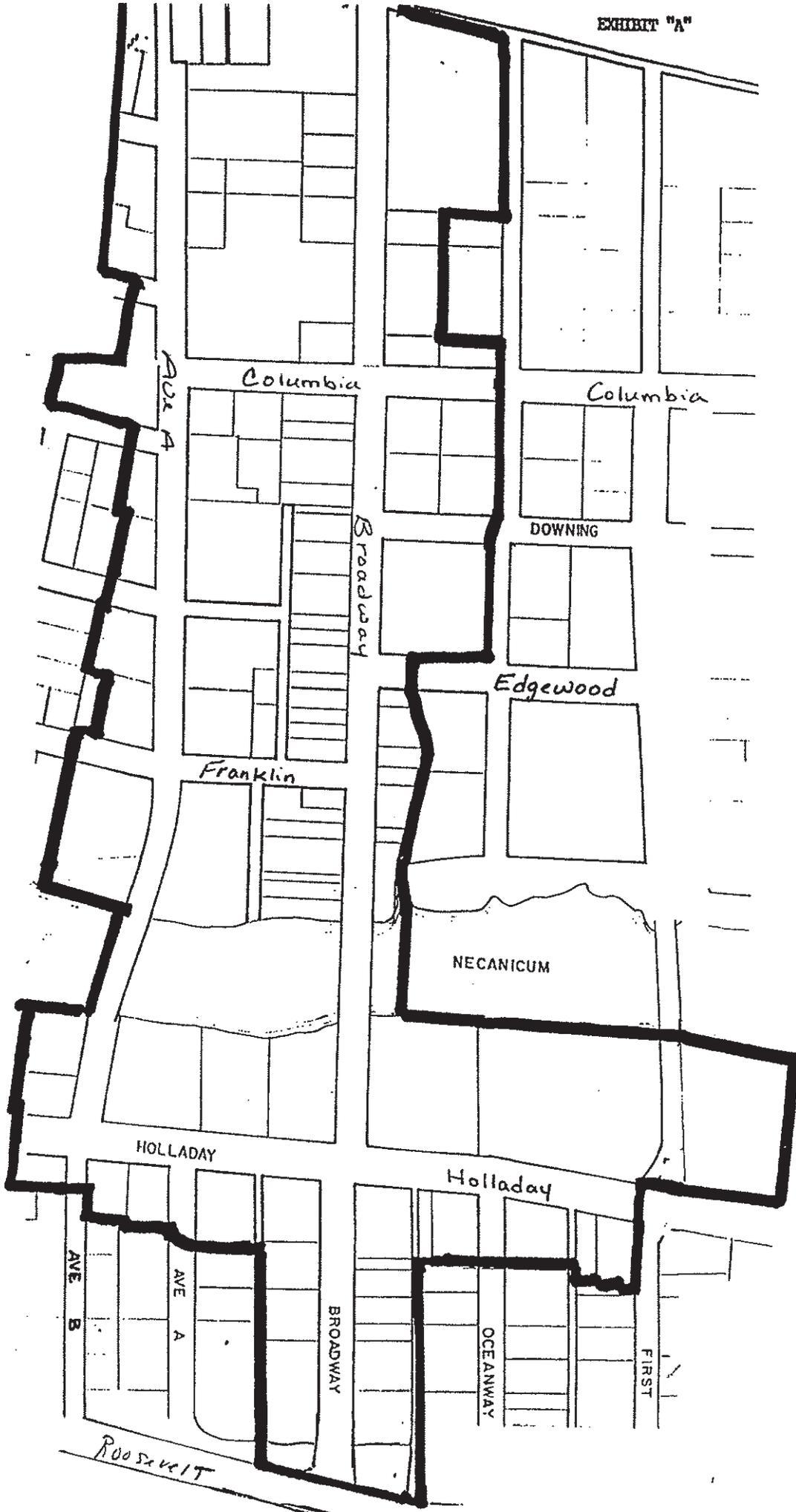
61021AC				
2602	Warren Kan 111 Broadway, Ste.5 Seaside, OR 97138	111 Broadway Acct. 11768	67.0	521.37
2603	Kan Associates, Inc. 111 Broadway, Ste.5 Seaside, OR 97138	Acct. 11769	45.0	350.18
2800	Kan Associates, Inc. 111 Broadway, Ste.5 Seaside, OR 97138	111 Broadway Acct. 11772	70.0	544.72
3900	Daggett Investments LLC 73-4219 Eluna St. Kailua Kona, HI 96740	531 Avenue A Acct. 11787	143.0	1,112.78
4200	Dan & Mary Kay Erickson 1850 Broadway Seaside, OR 97138	441 Avenue A Acct. 11790	100.0	778.17
4800	Fred Van Horn Jr. 89080 Easyway Rd. Gearhart, OR 97138	405 Avenue A Acct. 11797	100.0	778.17
4901	Bank of Astoria PO Box 28 Astoria, OR 97103	301 Avenue A Acct. 11799	100.0	778.17
5600	Bank of Astoria PO Box 28 Astoria, OR 97103	Acct. 11804	100.0	778.17
8200	US National Bank of Portland 2800 E Lake St. Minneapolis, MN 55406	251 Avenue A Acct. 11832	100.0	778.17
9900	William J. Maclean PO Box 54 Seaside, OR 97138	209 Avenue A Acct. 11848	100.0	778.17
10000	Brian McInerney PO Box 40191 Santa Barbara, CA 93140	151-153 Avenue A Acct. 51660	90.0	700.35
10102	Gilbert Inn Properties, LLC - Jean S. Vick 341 Beach Dr. Seaside, OR 97138	341 Beach Dr. Acct. 11852	114.0	887.11
10900	Robert Ross 940 Necanicum Seaside, OR 97138	Acct. 11869	100.0	778.17
11900	Theodor J. Stensland 4323 143rd Ave. SE Snohomish, WA 98290	321 Avenue A Acct. 11872	79.4	617.87
12000	Daniel & Susan Calef 3051 SE 23rd. ST. Gresham, OR 97080	25 Avenue A Acct. 11873	23.7	184.43
60001	Trendwest Resort, Inc. - Wyndham Vacation 8427 South Park Cir. - 4th Floor Tax Department Orlando, FL 32819	Resort at Seaside #C1 Acct. 52822	905.3	7,044.78

61021AB				
8100	Randy L. & Darleen L. Frank PO Box 205 Seaside, OR 97138	20 N Columbia Acct. 11677	100.0	778.17
8200	Interstate Amusement Company 110 Broadway Seaside, OR 97138	110 Broadway Acct. 11678	135.0	1,050.53
8300	William A. & Jean R. Ter Har PO Box 8 Seaside, OR 97138	150 Broadway Acct. 11679	135.0	1,050.53
10000	Michael L. & Karen Ellmaker 610 SW Alder, Suite 1000 Portland, OR 97205	 Acct. 11693	40.0	311.27
10001	Michael & Mary Davies 89905 Manion Dr. Warrenton, OR 97146	200 Broadway Acct. 11694	105.0	817.08
10002	Jesse Autry Ehler PO Box 11 Seaside, OR 97138	15 N Columbia Acct. 11695	35.0	272.36
10100	Jesse Autry Ehler PO Box 11 Seaside, OR 97138	15 N Columbia Acct. 11696	100.0	778.17
10200	Dale P. & Beverly Ballou 1929 Huckleberry Dr. Seaside, OR 97138	14 N Downing Acct. 11697	98.0	762.61
10300	Hugh D. & Dee L. Forgie PO Box 507 Seaside, OR 97138	212 Broadway Acct. 11698	182.0	1,416.27
11500	Shilo Inn Seaside Oceanfront LLC 11600 SW Shilo Ln. Portland, OR 97225	30 N Prom Acct. 11709	312.5	2,431.78
11600	Elizabeth Z. Kahl 14215 NE Alton Ct. Portland, OR 97230	102-104 Broadway Acct. 11711	50.0	389.08
12700	Necanicum Investment Co. 1504 Standard Place 1100 SW 6th Avenue Portland, OR 97204-1016	 Acct. 11722	350.0	2,723.59
12900	Liu Shaofei/Yiyang Zhang 1021 S Edgewood Seaside, OR 97138	402-404 Broadway Acct. 11726	24.9	193.76
13000	Beach Development LLC 3457 Hwy. 101 N Seaside, OR 97138	408 Broadway Acct. 11727	61.6	479.35
13100	Spiro Sassalos K Trustee 414 Broadway Seaside, OR 97138	412-414 Broadway Acct. 11728	30.3	235.79

61021AB				
13200	Beach Development LLC 3457 Hwy. 101 N Seaside, OR 97138	416-418 Broadway Acct. 11729	26.3	204.66
13300	Beach Development LLC 3457 Hwy. 101 N Seaside, OR 97138	500 Broadway Acct. 11730	61.9	481.69
13400	Terry & C.L. Lowenberg 3457 Hwy. 101 N Seaside, OR 97138	514 Broadway Acct. 11731	21.0	163.42
13500	Laroy R. & Catherine A. Smith 940 16th Avenue Seaside, OR 97138	554 Broadway Acct. 11732	121.3	943.92
61021AA				
3800	DMT Development LLC PO Box 23 Seaside, OR 97138	910 Broadway Acct. 11475	96.0	747.04
4000	Avery Loschen PO Box 453 Seaside, OR 97138	 Acct. 11477	206.3	1,605.36
4100	Avery Loschen PO Box 453 Seaside, OR 97138	 Acct. 11478	18.5	143.96
4200	Avery Loschen PO Box 453 Seaside, OR 97138	 Acct. 11479	41.5	322.94
4300	Avery Loschen PO Box 453 Seaside, OR 97138	728-730 Broadway Acct. 11480	38.0	295.70
4400	Christine Hammond/Sylvia Zelnys 2449 Sonora Rd. Palm Springs, CA 92264	 Acct. 11481	28.4	221.00
4500	Christine Hammond/Sylvia Zelnys 2449 Sonora Rd. Palm Springs, CA 92264	 Acct. 11482	73.6	572.73
4700	Robert C. Moberg/Steven T. Campbell PO Box 27 Seaside, OR 97138	842 Broadway Acct. 11483	50.0	389.08
4800	Mary Jean Walker Succ. Tr/Pearl K. Gubey TR 3528 Sunset Blvd. Seaside, OR 97138	850 Broadway Acct. 11484	15.0	116.73
4900	Diana T. Schafer/Schafer Family Trust PO Box 948 Seaside, OR 97138	 Acct. 11485	35.0	272.36
5000	Mildred Louma/Bula Properties, LLC 610 18th Street Astoria, OR 97103	862 Broadway Acct. 11486	50.0	389.08

61021AA			
6100	Avery L. Loschen 1661 Grand Ave. Astoria, OR 97103	Acct. 11493	75.0 583.63
6200	Dale & Jack Bessett PO Box 369 Yoncalla, OR 97499	61 N Holladay Acct. 11494	25.0 194.54
6300	Wexler Holladay Dr. LLC 1101 Avenue #D-201 Snohomish, WA 98290	39-45 N Holladay Dr. Acct. 11496	101.2 787.51
8300	Steven E. Haugen/James R. Haugen 47 N Holladay Dr. Seaside, OR 97138	57 N Holladay Acct. 11516	67.2 522.93
8400	Steven Haugen/James R. Haugen 47 N Holladay Dr. Seaside, OR 97138	47 N Holladay Acct. 11517	33.0 256.80
14300	Genesis Seaside LLC. 10260 SW Greenburg Rd. #1060 Portland, OR 97223	34 N Holladay Acct. 52241	484.9 3,773.34
14700	Gilbert Block LLC PO Box 453 Seaside, OR 97138	600-616 Broadway Acct. 11595	375.0 2,918.14
90117	Edith Leupp P. Tr. 8100 SW 2nd Avenue Portland, OR 97219	Rivertide Suites #117 Acct. 56715	197.0 1,532.99
61021AD			
11301	Seaside Broadway Development LLC/Kenneth B. Ulbricht PO Box 1161 Seaside, OR 97138	Acct. 12044	50.0 389.08
11400	Seaside Broadway Development LLC/Kenneth B. Ulbricht PO Box 1161 Seaside, OR 97138	851 Broadway Acct. 51628	192.6 1,498.75
11401	Premarq Inc./Kirk A. Fausett/Avery L. Lochen 2911 Marine Dr. #A Astoria, OR 97103	821 Broadway Acct. 12046	79.4 617.87
11500	Loyal Order of Moose Seaside Lodge #798 PO Box 334 Seaside, OR 97138	735 Broadway Acct. 12048	75.2 585.18
11600	Steven J. Oliva/Winfield F. Muffett 915 W 11th St. Vancouver, WA 98860	711 Broadway Acct. 12049	75.0 583.63
11700	Steven J. Oliva/Winfield F. Muffett 915 W 11th St. Vancouver, WA 98860	Acct. 12050	186.4 1,450.51
11800	Kirwin, LLC 89529 Green Mountain Rd. Astoria, OR 97103	609-611-619 Broadway Acct. 12051	190.0 1,478.52

61021AD				
11900	William & Robin Montero 641 NW 175th St. Shoreline, WA 98177	130 S Holladay Acct. 12052	110.1	856.76
12000	Esperanzita Montero PO Box 710 Seaside, OR 97138	Acct. 12053	100.1	778.95
13000	Burt K. Simpson Tr/Larry & Bettie L. Simpson/Karen Ottem 203 S Holladay Seaside, OR 97138	201-203 S. Holladay Acct. 12064	64.7	503.48
13100	Sand Springs Ranch & Company PO Box 873340 Vancouver, WA 98687	210 S Holladay Acct. 12065	314.0	2,443.45
13200	Ralph/Daniel Rogers PO Box 603 Seaside, OR 97138	231 S Holladay Acct. 12066	68.8	535.38
14000	Richard M. Baty/James Rogers 407 S Holladay Dr. Seaside, OR 97138	303 S Holladay Acct. 12074	50.0	389.08
14100	SSJ McCadden LLC/Bank of America NT & SA 101 N. Tryon Street NC1 001 0381 Charlotte, NC 28255	300 S Holladay Acct. 12075	120.0	933.80
14200	SSJ McCadden LLC/Bank of America NT & SA 101 N. Tryon Street NC1 001 0381 Charlotte, NC 28255	Acct. 12076	94.0	731.48
TOTAL			10,409.3'	81,002.00



Columbia

Columbia

DOWNING

Edgewood

Franklin

NECANICUM

HOLLADAY

Holladay

AVE B

AVE A

BROADWAY

OCEANWAY

FIRST

Roosevelt

ORDINANCE NO. 2010-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE, OREGON, PURSUANT TO ORS 223.112-223.132, SETTING A PUBLIC HEARING, EXTENDING THE TERM OF THE ASSESSMENT DISTRICT FOR ECONOMIC IMPROVEMENT, KNOWN AS THE "DOWNTOWN MAINTENANCE DISTRICT"; REPEALING ORDINANCE NO. 2009-02, AND ALL ORDINANCES IN CONFLICT.

WHEREAS, the current Downtown Maintenance District expires on June 30, 2010; and

WHEREAS, it is in the best interest of the City to extend the term of the District.

NOW, THEREFORE, THE CITY OF SEASIDE ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE. The economic improvement district shall be continued to provide maintenance, upkeep, and litter control of planting areas, seating areas, sidewalks, curbs, and gutters within a designated area known as the "Downtown Maintenance District."

SECTION 2. BOUNDARIES. The Boundaries of the Downtown Maintenance District are described as follows: Broadway from Roosevelt to the Prom; Avenue A from Holladay to the Prom; Columbia Street from Avenue A to Oceanway; Downing Mall from Broadway to Oceanway; Franklin Street from Broadway to Avenue A; First Avenue from Holladay to the Necanicum Bridge; Holladay from 1st Avenue to Avenue A on the West, and from 1st Avenue to Avenue B on the east, including 50' to the south of Avenue A and 50' south of Avenue B. (See Exhibit A attached.)

When the Council considers it necessary to expand the boundaries of the District, each new property owner affected will receive notice stating the time and place of a public hearing at which affected property owners may appear to support or object to the District. Boundary changes will be made by the enactment of an ordinance by the Council.

SECTION 3. COSTS. The cost of the Downtown Maintenance District is estimated to be \$81,002.00 annually. Based on the total assessed linear footage of 10,409.3 feet, the benefited properties within the Downtown Maintenance District will pay \$7.781695 per front foot.

SECTION 4. TERM OF DISTRICT. Assessments will be levied to the benefited property owners for a maximum of one (1) year, starting July 1, 2010, to provide for the Downtown Maintenance District.

SECTION 5. AUDITOR TO FILE PROPOSED ASSESSMENT. The City Auditor shall be required to prepare the proposed assessment for each lot in the District and file it with the Finance Office.

SECTION 6. NOTICE OF AFFECTED PROPERTY OWNERS. Notice shall be mailed to the owner of each lot to be assessed, the notice shall state the amount of the assessment proposed on the property of the owner receiving the notice. The notice shall state the time and place of a public hearing at which time affected property owners may appear to support or object to the proposed assessment. The hearing shall not be held sooner than thirty (30) days after the mailing of the notices. The Council shall consider any objections and may adopt, correct, modify or revise the proposed assessments.

Notice shall be mailed to affected property owners prior to March 26, 2010, announcing the intention of the Council to extend the Downtown Maintenance District and to assess the benefited property for all the cost. A public hearing will be held on Monday, April 26, 2010, at 7:00 PM at City Hall, 989 Broadway, at which time affected property owners may appear to support or object to the proposed extension of the district.

SECTION 7. ASSESSMENTS. If, after the hearing, the Council determines that the Downtown Maintenance District shall be extended, the Council shall determine the amount of the assessment on each lot in the District, and the extension of such assessments.

Assessments will not be made and Downtown Maintenance District will be abolished if written objections are received at the public hearing from owners of property upon which more than thirty-three percent (33%) of the total amount of assessments is to be levied.

SECTION 8. REPEAL. Ordinance No. 2009-02, adopted May 11, 2009, is repealed.

ADOPTED by the City Council of the City of Seaside on this ___ day of _____, 2010, by the following roll call vote:

YEAS:
NAYS:
ABSTAIN:
ABSENT:

SUBMITTED to and **APPROVED** by the Mayor on this ___ day of _____, 2010.

DON LARSON, MAYOR

ATTEST:

Mark J. Winstanley, City Manager

ORDINANCE NO. 2010-02

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING CHAPTER 150 AND 159 OF THE SEASIDE CODE OF ORDINANCES REGARDING BUILDING REGULATIONS AND ABATEMENT OF DANGEROUS BUILDINGS

THE CITY OF SEASIDE ORDAINS AS FOLLOWS:

WHEREAS, the City of Seaside Building Department is amending sections 150.20, 150.71, 150.73, and 150.99, as required by Senate Bill 915; deleting section 150.35 through 150.42, which is duplicated in Chapter 159; and adding section 159.02.

SECTION 1. Section 150.20 Standard Code Adopted by Reference is amended to read:

The following codes are hereby adopted by reference and made a part of this code, the same as if set forth in full herein:

- (A) The ~~1994~~ **1997** edition of the Uniform Housing Code, as published by the International Conference of Building Officials.
- (B) The current edition of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations, its standards, and Appendix Chapters 3 (Div. I & II), 4 (Div. 11), 9 (Division III), 15, 16, 18, 19, 29, 31 (Div. II & III), and **the 1997 Uniform Building Code, Appendix 33 or current chapters.**
- (C) The current editions of the State of Oregon Mechanical Specialty Code. Appendix A, and chapters 10 and 15 of Appendix B.
- (D) The current edition of the Oregon State Plumbing Specialty Code, its standards and administrative rules.
- (E) The current edition of the ~~State of Oregon Residential One and Two Family Dwelling~~ Specialty Code.
- (F) The State of Oregon Administrative Rules Chapter 814, Division 23, for the placement of mobile homes, and Chapter 814, Division 28, mobile home parks.

SECTION 2. Section 150.35-150.42 Unsafe Buildings and Structures (adopted in Section 159) is deleted:

~~150.35 MAINTENANCE OF BUILDINGS~~

~~All buildings, structures, safeguards and devices, both existing and new, and all parts thereof, shall be maintained in conformance with acceptable fire, life, safety, structural, mechanical, plumbing, sanitary and health practices.~~

~~150.36 DESIGNATION OF UNSAFE BUILDINGS OR STRUCTURES~~

~~(A) All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or part of a building and which are in deteriorated condition or otherwise unstable to sustain the design loads, are designated as unsafe building appendages.~~

~~(B) All such unsafe buildings, structures or appendages are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the 1994 Uniform Code for the Abatement of Dangerous Buildings.~~

~~150.37 NOTICE TO ABATE; TIME FRAME~~

~~(A) On determination that a violation exists, the city shall post a notice of abatement on the property, and a written notice by certified mail shall be served upon the owner of record of the property.~~

~~(B) The notice to abate shall contain:~~

- ~~(1) A legal description of the property where the violation exists.~~
- ~~(2) A direction to abate the violation within a specified time frame.~~
- ~~(3) A description of the violation.~~
- ~~(4) A statement that, unless the violation is removed, the city may abate the violation and the cost of abatement will be charged to the owner.~~
- ~~(5) A statement that failure to abate a violation may warrant citation into municipal court with the imposition of a fine.~~
- ~~(6) A statement that the person responsible may protest the notice to abate by giving notice to the city manager, ten days from the date of posting of the notice.~~

~~(C) The person posting the notice shall execute and file with the city a certificate before a notary public, stating the date and place of the posting, required in division (A) of this section.~~

~~(D) An error in the name or address of the person responsible shall not make the notice void.~~

~~(E) The violation shall be abated within a reasonable time, but not more than 30 days.~~

~~150.38 ABATEMENT BY PERSON RESPONSIBLE~~

~~(A) Within the time frame specified in the notice to abate, the person responsible shall remove the violation, or file a protest within ten days from the date of notice.~~

~~(B) The person responsible may request an extension of time from the City Manager, or authorized designee, who may grant a reasonable extension or accommodations to the specified time frame.~~

~~(C) The person responsible, protesting that no exists, shall file a written statement that the basis for the protest with the City or authorized designee.~~

~~(D) The statement shall be referred to the City Council as a part of its regular agenda at its next meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council.~~

~~In all cases the Council shall determine whether a violation in fact exists, and set a time frame for the abatement of the violation. The determination shall be entered in the official minutes of the Council.~~

~~(E) If the Council determines that a violation in fact exists, the person responsible shall abate the violation within the time frame specified.~~

~~(F) If more than one person is responsible for the violation, they shall be jointly and severally liable for abating the violation or for the costs incurred by the city in abating the violation.~~

~~150.39 ABATEMENT BY CITY~~

~~(A) If the violation has not been abated by the person responsible within the time allowed, the Council may cause the violation to be abated.~~

~~(B) The officer charged with the abatement of the violation shall have the right to enter onto or upon property at reasonable times to investigate or cause removal of a violation.~~

~~(C) The City Manager shall keep an accurate record of the expense incurred by the city in physically abating the violation and shall include a charge equal to 20% of those expenses for administrative costs.~~

150.40 ASSESSMENT OF COSTS

(A) The City Manager shall forward to the person responsible, by certified mail, a notice of assessment stating:

~~(1) The total cost of the abatement, including administrative costs.~~

~~(2) That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.~~

~~(3) That if the owner, or the person responsible, objects to the cost of the abatement, as indicated, a notice of objection may be filed with the City Manager not more than five days from the date of the notice of assessment.~~

~~(B) No later than 30 days after the date of objection, the Council, in regular course of business, shall hear and make a decision on the objections to the costs assessed.~~

~~— (C) If the costs of the abatement are not paid within 30 days from the date of the notice of assessment, an assessment of the costs, as stated or as decided by the Council, shall be made by resolution, and it shall constitute a lien on the property from which the violation was removed or abated.~~

~~(D) The lien shall be enforced in the same manner as liens for street improvements, utility bills and other city liens and shall bear interest at an annual rate of 18%. The interest rate shall begin to run on the thirty-first day from the date of notice of abatement.~~

~~(E) An error in the name of the owner or the person responsible or a failure to receive the notice of assessment will not void the assessment, and it shall remain a valid lien against the property.~~

150.41 SUMMARY ABATEMENT

~~City officials may proceed to summarily abate a health or other violation which imminently endangers human life or property. The person responsible for such a violation shall reimburse the city for costs incurred in abating the violation.~~

150.42 VIOLATIONS

~~(A) Each day a violation of a provision of this subchapter constitutes a separate violation.~~

~~(B) The abatement of a nuisance is not a penalty for violation of this subchapter, but is an additional remedy. The imposition of a fine does not relieve a person of the duty to abate the violation.~~

SECTION 3. Section 150.71 (B) Work Without Permit; Investigation is amended to read:

(B) An investigation fee in the amount equal to the permit fee but not less than \$50, in addition to the permit fee and any **assessment penalty citation**, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of the subchapter nor from any penalty prescribed by law.

SECTION 4. Section 150.73 Enforcement of Standard Codes is amended to read:

(A) The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015, and ~~Appendix chapter 33~~ is enforced as part of this subchapter.

(B) Appendix chapter 33 **of the Uniform Building Code**, 1994 1997 Edition, published by the ICBO, ~~except tables 33-A and 33-B~~, is adopted as part of this subchapter.

(C) The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, is enforced as part of this subchapter.

- (D) The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0010, is enforced as part of this subchapter.
- (E) The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010, is enforced as part of this subchapter.
- (F) The Oregon ~~One and Two Family Dwelling~~ **Residential Specialty Code**, as adopted by OAR 918-480-0000 through 918-480-0010, and **the 1997 Uniform Building Code**, Appendix Chapter 33, ~~Oregon Structural Specialty Code~~, is enforced as part of this subchapter.
- (G) The Manufactured Dwelling Park and Mobile Home Park rules adopted by OAR 918-600-0005 through 918-600-0110, and ~~appendix chapter 33, Oregon Structural Specialty Code~~, are enforced as part of this subchapter.
- (H) The Manufactured Dwelling rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, and ~~Appendix chapter 33, Oregon Structural Specialty Code~~, are enforced as part of this subchapter.
- (I) The Recreational Park and Organizational Camp Rules adopted by OAR 918-650-0000 through 918-650-0085, and ~~Appendix chapter 33, Oregon Structural Specialty Code~~, are enforced as part of this subchapter.

SECTION 5. Section 150.99 Penalty is amended to read:

~~(A) Any person violating any provisions of § 150.01, or any provision of this chapter for which no specific penalty is otherwise provided, shall, upon conviction in the municipal court of the city, be punished by a fine not to exceed \$700.~~

~~(B) Violation of § 150.02, or of any provision of § 150.35 through 150.42, or any provision of § 150.55 through 150.74 is a misdemeanor, and may be punishable, upon conviction, by a fine of not more than \$700. Each day that a violation exists is a separate offense.~~

~~(C) Any violation of § 150.03 or 150.20 may be punishable, upon conviction in the municipal court of the city, by fine of not to exceed \$1,000.~~

A. Any person violating any provisions of 150.01, 150.03, or 150.04 and any provision of this chapter for which no specific penalty is otherwise provided, shall upon conviction in the Municipal Court of the City, be punished by a fine not to exceed \$1000.

B. Violation of any provision of 150.20 of this chapter is subject to an Administrative Civil Penalty not to exceed \$5000 for a single violation and shall be processed in accordance with the procedures set forth in this code. Each additional day that a violation of a provision of this ordinance exists constitutes a separate violation with a Civil Penalty not to exceed \$1000.

C. In addition to the above penalties, a condition caused or permitted to exist in violation of this ordinance is a public nuisance and may be abated by any of the procedures set forth under law.

D. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the City under any ordinance, statute, or law.

AUTHORITY TO IMPOSE A CITATION INTO MUNICIPAL COURT AND ASSESS ADMINISTRATIVE CIVIL PENALTIES

A. Upon a determination by the Building Official that any responsible person, firm, corporation or other entity however organized has violated any provisions of 150.01, 150.03, or 150.04, may be issued a citation into Municipal Court.

- B. Upon a determination by the Building Official that any responsible person, firm, corporation or other entity however organized has violated any provisions of 150.20; the Building Official may issue a notice of civil violation and impose upon the violator and/or any other responsible person an Administrative Civil Penalty.**

For purposes of this subsection and subsection B above, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, this may include the owner or owners as well.

- C. Prior to issuing a citation or an Administrative Civil Penalty, the Building Official may pursue reasonable attempts to secure voluntary correction.**
- D. Any notice of a civil violation that imposes an Administrative Civil Penalty under this section shall either be served by personal service or shall be sent by registered or certified mail.**

Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date if mailed to an address within this state, and seven days after the date if mailed to an address outside this state. Every notice shall include:

- 1. Reference to the particular code provision, ordinance number or rule involved;**
 - 2. A short and plain statement of the matters asserted or charged;**
 - 3. A statement of the amount of the penalty or penalties imposed and;**
 - 4. A statement of the party's right to appeal the Civil Penalty to the City Manager, a description of the process the party may use to appeal the Civil Penalty; and the deadline by which such an appeal must be filed.**
- E. Any person, firm, corporation, or other entity however organized that is issued a notice of Civil Penalty may appeal the penalty to the City Manager.**
- F. A Civil Penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager within 10 days.**
- G. Each day the violator fails to remedy the code violation shall constitute a separate violation.**
- H. The Civil Penalty authorized by this section shall be in addition to assessments or fees for any costs incurred by the City in remediation, cleanup, or abatement, and any other actions authorized by law.**

UNPAID PENALTIES

- A. Failure to pay an imposed Administrative Civil Penalty pursuant to this code within ten days after the penalty becomes final shall constitute a violation of this code. Such time may be extended as determined by the City Manager. Each day the penalty is not paid after this deadline shall constitute a separate violation. The City is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by law.**
- B. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an Administrative Civil Penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or Certificate of Occupancy.**

SECTION 6. Section 159.02 Assessment of Penalties is added to read:

- A.** Any violation of this chapter is subject to an Administrative Civil Penalty not to exceed \$5000 for a single violation and shall be processed in accordance with the procedures set forth in this code. Each additional day that a violation of a provision of this ordinance exists constitutes a separate violation with a Civil Penalty not to exceed \$1000.
- B.** In addition to the above penalties, a condition caused or permitted to exist in violation of this ordinance is a public nuisance and may be abated by any of the procedures set forth under law.
- C.** The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the City under any ordinance, statute, or law.

AUTHORITY TO IMPOSE AN ADMINISTRATIVE PENALTY

- A.** Upon a determination by the Building Official, any responsible person, firm, corporation or other entity however organized violating any provisions of this chapter may be issued an Administrative Civil Penalty.
- B.** Upon a determination by the Building Official that any responsible person, firm, corporation or other entity however organized has violated any provisions of this chapter; the Building Official may issue a notice of civil violation and impose upon the violator and/or any other responsible person an Administrative Civil Penalty. For purposes of this subsection and subsection B above, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, this may include the owner or owners as well.
- C.** Prior to issuing a citation or an Administrative Civil Penalty, the Building Official may pursue reasonable attempts to secure voluntary correction.
- D.** Any notice of a civil violation that imposes and Administrative Civil Penalty under this section shall either be served by personal service or shall be sent by registered or certified mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date if mailed to an address within this state, and seven days after the date if mailed to an address outside this state. Every notice shall include:
 - 1. Reference to particular code provision, ordinance number, or rule involved;
 - 2. A short and plain statement of the matters asserted or charged;
 - 3. A statement of the amount of the penalty or penalties imposed and;
 - 4. A statement of the party's right to appeal the Civil Penalty to the City Manager, a description of the process the party may use to appeal the civil penalty; and the deadline by which such an appeal must be filed.
- E.** Any person, firm, corporation, or other entity however organized that is issued a notice of Civil Penalty may appeal the penalty to the City Manager.
- F.** A Civil Penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager with 10 days.
- G.** Each day the violator fails to remedy the code violation shall constitute a separate violation.

- H. The Civil Penalty authorized by this section shall be in addition to assessments or fees for any costs incurred by the City in remediation, cleanup, or abatement, and any other actions authorized by law.**

UNPAID PENALTIES

- A. Failure to pay an imposed Administrative Civil Penalty pursuant to this code within ten days after the penalty becomes final shall constitute a violation of this code. Such time may be extended as determined by the City Manager. Each day the penalty is not paid after this deadline shall constitute a separate violation. The City is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by law.**
- B. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an Administrative Civil Penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or Certificate of Occupancy.**

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect and be in force on May 28, 2010.

ADOPTED by the City Council of the City of Seaside on this ___ day of _____, 2010, by the following roll call vote:

YEAS:
NAYS:
ABSTAIN:
ABSENT:

SUBMITTED to and **APPROVED** by the Mayor on this ___ day of _____, 2010.

DON LARSON, MAYOR

ATTEST:

Mark J. Winstanley, City Manager

LIQUOR LICENSE APPLICATION

David Posalski
Tsunami Sandwich Company
11 Broadway Street
Seaside

This business has applied for a Limited On-Premises Sales Liquor License and an Off-Premises Sales License. (New Business)

- **Limited On-premises sales license – allows the sale of malt beverages, wine and cider for consumption at the licensed business, and the sale of kegs of malt beverages to go. Licensees can cater small scale and large-scale private events if they have pre-approval from OLCC.**
- **Off-Premises Sales License – allows the sale of malt beverages, wine and cider to go in sealed containers.**

The Police Department has reviewed the business and applicants applying for the liquor license and attached is the information received.

Criteria for consideration

The City Council, after consideration, may determine to make a favorable, unfavorable, conditionally favorable or no recommendation to the OLCC. If the City Council makes an unfavorable or conditionally favorable recommendation to the OLCC regarding any application for liquor license, the recommendation will be based on a finding that one or more of the following conditions exist:

1. There is a history or pattern of illegal or disorderly activity on the premises.
2. There have been disturbances and/or other problems (such as fights, altercations, drug dealing by patrons, furnishing alcohol to minors by patrons, public drunkenness, alcohol related litter, etc.) related to the exercise of the applicant's alcohol license privilege and the applicant has failed to take reasonable and timely corrective action when notified of these problems by the police or the OLCC.
3. There is a continuing problem of noise from this business disturbing neighbors.
4. The applicant would be a poor risk for compliance with liquor laws, as indicated by a felony conviction, which reflects on the applicant's ability to be a responsible liquor licensee.
5. The applicant would be a poor risk for compliance with liquor laws, as indicated by a failure to comply with liquor laws.
6. The applicant has a history of abusing alcohol or other controlled substances and would be a poor risk for compliance with liquor laws.
7. The applicant has made an intentional and materially false statement about a matter that reflects on the applicant's ability to comply with the State's liquor laws.
8. An unlicensable person or a party not named as applicant has an ownership interest in the business to be licensed.
9. The applicant has failed to operate as originally proposed to the City Council, the original proposal having been a deciding factor in the Council's favorable recommendation to the OLCC.
10. The applicant has expanded the boundaries of the licensed premises to areas not originally considered by the Council and without City and OLCC approval.
11. The business is located within 500 feet of a school, child care facility, church, hospital, nursing or convalescent care facility, a park or child oriented recreation facility, or an alcohol and other drug treatment facility and there is evidence that the business will adversely impact the facility.

Seaside Police Department

April 13, 2010

MEMORANDUM

TO: Mark Winstanley, City Manager
FROM: Robert Gross, Chief of Police
SUBJECT: Tsunami Sandwich Company OLCC Permit

We have reviewed the liquor application for Tsunami Sandwich Company located at 11 Broadway. This is a new business asking for a "Limited On-Premise" and "Off Premises" license as a new owner.

Our background check did not find anything that would disqualify the owner from obtaining a liquor license. We did note in our review of the application that the location is within 500 feet of a church and child oriented recreation facility which could be a basis for making an unfavorable recommendation to the Oregon Liquor Control Commission.

Under Chapter 35: Alcoholic Beverage Licenses, 35.05 OLCC Consideration Procedures subsection (K) reads: "The businesses is located within 500 feet of a school, child care facility, church, hospital, nursing or convalescent care facility, a park or child oriented recreation facility, or an alcohol and other drug treatment facility and there is evidence that the business will adversely impact the facility". This is one of the eleven conditions that can be used to make an unfavorable recommendation.

While the business is clearly within 500 feet of a church and child oriented recreation facility, we found no evidence that the business will adversely impact the either location and there are similar establishments selling alcoholic beverages in the same area.

If you have any additional questions, please let me know.

Working Together We Can Make A Difference