

COUNCIL MEETING MINUTES
November 23, 2009

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0001 **DATE. COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, NOVEMBER 23, 2009.**

CONVENED. The meeting convened at 7:00 p.m. with Mayor Figley presiding.

0027 **ROLL CALL.**

Mayor	Figley	Present
Councilor	Cox	Present
Councilor	Lonergan	Present
Councilor	McCallum	Present
Councilor	Morris	Present
Councilor	Pugh	Present
Councilor	Schmidt	Present

Staff Present: City Administrator Derickson, City Attorney Shields, Police Chief Russell, Interim Police Chief Blevins (or Police Captain Blevins), Police Captain Alexander, Public Works Director Brown, Asst. City Engineer Liljequist, Community Services Director Row, HR Assistant Sprauer, City Recorder Tennant

0045 **ANNOUNCEMENTS:**

- A) The Library will be closed on Thanksgiving, but open regular hours Friday through Sunday and the Aquatic Center will be closed on Thanksgiving Day, open from 1:00-5:00 PM on Friday, and open regular hours on Saturday and Sunday.
- B) The Mayor's Tree Lighting event will take place at 6:00 PM on December 6, at the Downtown Plaza. The Mayor encouraged residents to attend this event which will include caroling, hot chocolate, and a visit from Santa.

112 **INTRODUCTION OF NEW POLICE CAPTAIN:**

Police Chief Russell introduced Doug Garrett as the City's new Police Captain effective December 21, 2009.

0395 **PRESENTATION: I-5 INTERCHANGE AND TRANSIT FACILITY.**

Alan Fox, ODOT project manager for I-5 interchange, transit facility and Broughton Way projects.

Public Outreach

Mr. Fox discussed his public outreach efforts, focused on the business community, including a review of individual business owners he interviewed. He sent 150 letters to business owners offering meetings and had 7 responses. His goal was to get personally

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acquainted with business owners and their concerns and issues. Mr. Fox plans on scheduling additional meetings as the project plan becomes more refined in approximately March 2010. Additional information may be found at OTOT website. He plans on scheduling a meeting with residents once the position of the sound wall has been finalized

Mr. Fox continues to work on right-of-way issues, particularly the Kentucky Fried Chicken property.

Transit Center

ODOT is working on technical refinements on the agreement with the City. Mr. Fox anticipates that the agreement will be complete this week. The State would like to use the transit facility area as a staging area for the interchange construction. The State would agree to build out the center within 3 years of the completion of Evergreen Rd, since funding of the interchange has not been solidified. Mr. Fox is seeking Council agreement with this approach. The current schedule for I-5 interchange anticipates completion in the latter part of 2013 or early 2014. The transit facility site is the best location for the staging area but if it does take longer for the I-5 interchange improvement then they will need to look at purchasing other vacant land for the staging area.

Councilor Cox expressed his preference not to delay the transit facility but is willing to wait if it will save money on the project cost. Councilor Schmidt inquired about an alternate location for staging area on the southeast corner of Hwy 214 / I-5 interchange on property currently owned by the State. Mr. Fox stated that ODOT staff will look at that piece of property and if possible use it for the staging area instead of the transit facility. Mr. Fox agreed to forward the results of ODOT evaluation of the proposed alternative staging area to the City Administrator and Public Works Director who will forward it to Council. Mr. Fox also discussed traffic disruption inherent in the project and potential impacts on the community. This will be addressed with the traffic control plan which will be completed next year. Councilor McCallum expressed concerns about waiting the 3 years for construction of the Transit Facility especially if further delays in getting the I-5 interchange project started. Mr. Fox stated that the agreement with the City will clarify the timing of and triggers for various stages of the project. Much of the timing is dependent on the timing and receipt of funding for the interchange projects. Councilor McCallum also expressed concern about the impact on businesses and hoped that more businesses would have responded to the ODOT offer to meet to discuss the impacts of the project. Mr. Fox agreed to continue outreach efforts. In addition, Mr. Fox will meet with Police and Fire Departments once a traffic plan has been developed later next year.

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Broughton to Park Ave Project

Mr. Fox reported that ODOT is moving ahead with this project including environmental issues, mapping, and traffic projections. Mr. Fox anticipates public meetings being held in late winter or early spring.

1693 **PRESENTATION: WATER QUALITY ISSUES.**

Public Works Director Brown has prepared a summary of a technical report prepared by CH2M Hill regarding chloramines used as disinfectant for distribution systems. Director Brown reviewed the presentation which was provided to Council. If City decides to go with monochloramine, it will take several months to reach full effectiveness. A significant public education effort would also be necessary.

2602 City Administrator Derickson requested confirmation that in response to the latest complaints, Public Works is flushing approximately 500,000+ gallons per day through the system. Public Works Director Brown indicated that was the minimum daily flushing being performed. Public He also stated that the latest round of complaints of musty smell is the result of high velocity flushing done in response to the midge fly larvae complaints earlier this fall. This flushing dislodged some of the biofilm that provides habitat for the midge fly. City Administrator Derickson requested a cost estimate at the conclusion of the flushing activities. Public Works Director Brown stated that last year the electrical cost for flushing was approximately \$40,000.

Councilor McCallum asked how many areas are affected by cloudy water resulting from flushing activities. Public Works Director Brown responded that areas affected will vary based on system demand and usage. Public Works Director Brown stated that there are a lot of issues out in Senior Estates due to the age and configuration of the system in that area.

Councilor Lonergan questioned if are there different health risks between chlorine and monochloramine. Public Works Director Brown stated that he believed that there are much greater health risks associated with chlorine than monochloramine. He feels that monochloramine is a much safer and gradual transition than just using chlorine.

Councilor McCallum asked if the Centers for Disease Control had any estimates of the percentage of the population that may have adverse affects resulting from monochloramine treatment. Public Works Director Brown responded that while he did not have specific percentages, the number of people adversely affected by monochloramine is much lower than the number of people adversely affected by chlorine. He indicated that reactions to monochloramine are more of a rash than the severe respiratory reactions experienced with chlorine. Councilor Lonergan asked if the initial risk is greater during the initial stages of a chloramine treatment process. Public Works Director Brown stated that the risks are relatively constant due to the initially high levels of flushing that would be utilized to remove the organic matter that becomes dislodged in the early stages of treatment.

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Councilor Schmidt inquired about the side effects of the proposed treatment. Public Works Director Brown replied that allergic reactions to chlorine can be severe respiratory constrictions, while chloramine sensitivity manifests as a skin irritation or rash. The difference is due to the chemical interaction between naturally existing ammonia in the system and small amounts of added chlorine as opposed to treating with high levels of free chlorine.

Councilor Morris inquired about harmful by products of chloramine treatment. Public Works Director Brown responded that there are several organic compounds that the Environmental Protection Agency regulates and requires monitoring.

Councilor Morris asked about impacts to ratepayers. Public Works Director Brown believes that the current rates do take into account potential chlorination of the system and when rates do need to be increased it will be because of capacity. The capital improvement fund currently has the funds to make this improvement to the system without raising rates. The estimated cost is between \$700,000 and \$750,000.

Councilor McCallum asked about the timeline for implementation. Public Works Director Brown indicated that the design would take approximately 6 months and installation would take between 6 and 10 months conservatively. It is not a large modification process. Alternative is to continue flushing activities.

City Administrator Derickson requested guidance from Council regarding next steps.

Councilor Cox suggests getting direction from the voters and asked for guidance from the City Attorney regarding how that could be accomplished. City Attorney Shields responded that Council could adopt an ordinance calling for a vote or could go out for an advisory vote. Councilor Pugh wants the public to be responsible for the decision.

Mayor Figley indicated that an advisory vote has not been used in the City in recent memory and proposed that any election be concurrent with a regular election to avoid additional costs. Mayor Figley stated that Council was elected to make decisions on the issues before them. Councilor McCallum concurred, adding that voters elect Council members to represent the public and make informed decisions about difficult and complicated issues. Councilor Pugh disagreed, stating that Council has a responsibility to offer residents a choice.

4062 Mayor Figley inquired about the possibility of State or other jurisdictional intervention into Woodburn water quality. Public Works Director Brown replied that Department of Health Services might take action against the City to make improvements but is uncertain as to when that may occur. City Administrator Derickson indicated that a preventive mandate issued by Department of Health Services is unlikely to be issued; they would likely wait until an outbreak occurred and then intervene.

Councilor Morris recommended that the Council make a decision but allow for a public process.

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Public Works Director Brown pointed out that the public can dechlorinate water at point of use and that would take care of the small percentage of the public that need protection from chlorination. He indicated it is not expensive or difficult to do.

Councilor Cox feels that it would be less expensive to address the issue now than to wait for an external mandate.

Mayor Figley feels it is important to get information out to the public for those that wish more information.

- 5220 City Administrator Derickson would like to work with Public Works Director Brown to develop a proposal for Council to review and then come up with a public input and legislative strategy. Mayor Figley agreed.

5665 **BUSINESS FROM THE PUBLIC**

Arnold Ponce, West Woodburn resident, was referred to Council by Judge Zyryanoff regarding two tickets issued to him for unleashed dogs. There is no provision in the ordinance for off-leashed trained dogs. Related accounts for the 2 incidents and feels there is a problem with how the ordinance is currently written. Mr. Ponce feels his dogs do not come under the definition of at large and feels that he is being penalized for having trained dogs. Mayor Figley understands Mr. Ponce's concern and wonders if it is possible to define control. Councilor Cox related that in his experience, voice control is a tough standard to enforce, and is not in favor of this standard. He recommends that Mr. Ponce take care in selecting the areas that he allows his dogs off leash.

Councilor McCallum asked if dogs are allowed off leash in public parks. Community Services Director Row responded that they are not.

City Administrator Derickson is sympathetic and clarifies that the ordinance is built around irresponsible people and that the ordinance as written is necessary to protect public health and safety. He stated that the City is considering an off leash park in West Woodburn as an experiment to evaluate how such an area would work.

Councilor Schmidt and Councilor Pugh suggested that electronic collars could be added to the ordinance. Police Chief Russell indicated that even with electronic collars, dogs must be trained to respond to the collars and that cannot be observed or objectively measured. He further indicated that code enforcement officers primarily respond to complaints rather than looking for dogs at large.

Councilor Morris related that his primary concern is public safety.

Council had further discussion on the issue in general. City Attorney Shields reported that the Council updated this ordinance in 2008 and that process included public input. Mayor Figley asked if there was Council interest in pursuing modification of this ordinance. Council did not wish to pursue modification of this ordinance.

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0307 **CONSENT AGENDA.**

- A) approve the City Council minutes of October 26, 2009;
- B) approve the City Council minutes of November 9, 2009;
- C) approve the City Council executive session minutes of November 9, 2009;
- D) approve the Park and Recreation Board minutes of November 10, 2009; and
- E) accept the Crime Statistics report for October 2009.

Councilor Schmidt asked, regarding Parks & Recreation meeting, what would happen if wetlands permits are not approved. Community Services Director Row responded that they hope to have permits after January 2010.

Pugh/Lonergan ...adopt the Consent Agenda as presented. The motion passed unanimously.

0410 **COUNCIL BILL NO. 2804 - SOLID WASTE FRANCHISE ORDINANCE.**

Councilor McCallum introduced Council Bill No. 2804. Recorder Tennant read the two readings of the bill by title only since there were no objections from the Council.

Councilor Lonergan declared that he works for Allied Waste in Clackamas and Washington counties, but does not have any direct involvement with Allied Waste in Marion County or any financial involvement in the company beyond his employment. Councilor Lonergan chose to remain on the docket and vote. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2804 duly passed.

0620 **AWARD OF CONSTRUCTION CONTRACT: CENTENNIAL PARK PHASE III PROJECT (BID #2010-03).**

Bids Centennial Park improvements were received from the following contractors: Tripplett Wellman, \$877,000; 2KG Contractors, Inc., \$921,000; Bernhardt Golf, \$930,000; Nomarco, \$965,800; Paul Brothers, Inc., \$1,033,635; K & E Excavating, \$1,050,202; Canby Excavating, \$1,112,000; Parsons Excavating, \$1,115,000; First Cascade Corp., \$1,137,627; and Brown Contracting, \$1,201,000.

On November 4, 2009, a letter was received from Tripplett Wellman requesting withdrawal of their offer since their bid contained a significant financial error based on their understanding of the scope of work which did not come to their attention until after the bids were opened. Staff reviewed the request and approved the contractor's withdrawal request. As a result, 2KG Contractors Inc. is the low bidder on this project.

Pugh/McCallum ... award a construction contract for the Centennial Park Phase III Project to 2KG Contractors, Inc., in the amount of \$921,000.

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0682 Councilor Schmidt expressed concern with alternate 2 and alternate 3, particularly with the size of the buildings and would like to see these items postponed. In addition, he has concerns about the leveling of the ball fields and feels that they need to be reconstructed. Community Services Director Row responded that alternates 2 and 3 were selected based on the cost effectiveness of the bids and the priorities of the work to be completed. The existing maintenance building on that site came with the property and was previously an agricultural building. While it does currently serve as a storage building it does not meet current maintenance needs. The current plan is to reconstruct the building that will meet access and utilization needs and secure the onsite irrigation well, resulting in more efficient equipment and staff utilization. Field 1 is the worse draining field, due to the presence of clay that holds onto moisture in addition to that field not being well constructed, particularly for drainage. The selected add-on would re-grade and reinstall the catch basins connected to the existing drainage system. Staff was pleased with the bids received and feels that the selected alternates provide good value to the project. Fields 2 and 3 three are in much better condition, but also have drainage issues in wet weather.

Councilor Cox stated that he has observed the wet fields in the park but was unaware of the maintenance building portion of the project. Councilor Cox reported that the existing building is in poor shape and unsuitable for storage of valuable equipment. He feels that it would be beneficial to replace this building to house the equipment and supplies.

Councilor Morris inquired about the funding for the project. Community Services Director Row stated that the City has a \$500,000 state grant and \$25,000 Burlingham Trust grant with the balance funded from parks system development charges.

The motion passed unanimously.

1400 **PLANNING COMMISSION OR ADMINISTRATIVE LAND USE ACTION.**

A) Approval of land use Cases PAR 2009-01 and EXCP 2009-02 located at 1409 Hardcastle Avenue: Economic and Development Services Director Hendyrx approved, with conditions, the applications to partition to divide one lot into three parcels and for a Type II Exception to street right-of-way and improvements for Hardcastle Avenue.

Councilor Cox remarked that staff had provided a vague description and he would like to see more description in the staff report.

No action was taken by the Council to call this approval up for review.

1525 **CITY ADMINISTRATOR'S REPORT.**

A) Stated that he had the privilege to address the Oregon Peace Officers Association Conference the past week and expressed appreciation for the support of the law

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enforcement community in response to the December 2008 bombing.

1544 **MAYOR AND COUNCIL REPORTS.**

Mayor Figley attended the Oregon Peace Officers Association conference and considers it a privilege to say thank you to all who assisted our community following the December 2008 bombing incident.

McCallum has noticed a lot of truck traffic on Boones Ferry Rd and wonders if staff had seen motor carrier inspector or if other enforcement options are available.

Captain Blevins reported that Officer Prinslow has gone to truck inspection school and the Police Department is planning on sending another couple of officers to assist with enforcement with this issue.

Councilor Schmidt thanked Public Works Director Brown for presentations he made last week on the Fifth Street project.

Councilor Cox asked about the outcome of tonight's presentation on the Fifth Street project. Public Works Director Brown responded those in attendance were responsive and interested in potential changes that they could anticipate as a result of the project.

1865 **ADJOURNMENT.**

Pugh/McCallum meeting be adjourned. The motion passed unanimously. The meeting adjourned at 9:32 p.m.

APPROVED _____
KATHRYN FIGLEY, MAYOR

ATTEST _____
Mary Tennant, Recorder
City of Woodburn, Oregon

COMMUNITY SERVICES DEPARTMENT STATISTICS

OCTOBER 2009

Recreation Services Division

	<u>Oct-08</u>	<u>Oct-09</u>	<u>2008 YTD</u>	<u>2009 YTD</u>
<u>Revenue:</u>	\$6,228.13	10,849.00	\$44,072.98	\$60,188.42
<u>Expenditures:</u>	\$26,526.00	29,018.59	\$119,901.96	\$126,890.11
<u>Program Attendance:</u>				
Youth Sports:	234	283	486	564
Adult Sports:	168	250	376	298
Youth Programs:	4	0	419	190
Adult Programs:	30	6	127	79
Teen Programs:	802	1189	2,334	4,106
After School Club:	2,554	1889	4,981	3,719
Special Events:	150		2,638	2,050
TOTAL:	3,942	3,617	10,981	11,006

Aquatics Division

	<u>Oct-08</u>	<u>Oct-09</u>	<u>2008 YTD</u>	<u>2009 YTD</u>
<u>Revenue:</u>	\$8,573.82	16,504.82	\$76,522.68	\$69,644.34
<u>Expenditures:</u>	\$48,770.89	50,082.02	\$215,637.59	\$221,513.87
<u>Cost Recovery:</u>	18%		35%	31%
<u>Attendance:</u>	4,381	5041	21,381	26,832
<u>Lesson Enrollment:</u>				
Group:	100	37	596	533
Adults:	0	5	4	38
Private:	3	1	40	13
4th Grade:	84	68	121	160
TOTAL:	187	111	761	744

Library Division

	<u>Oct-08</u>	<u>Oct-09</u>	<u>2008 YTD</u>	<u>2009 YTD</u>
<u>Revenue:</u>	\$6,573.34	17,999.19	\$28,039.81	\$27,384.32
<u>Expenditures:</u>	\$94,173.52	74,776.52	\$332,475.38	\$310,562.84
<u>Library Attendance:</u>	17,369	15240	69,503	66,294
<u>Library Circulation:</u>	12,858	13162	49,084	52,576
<u>Adult Program Count:</u>	11	2	20	13
<u>Adult Attendance:</u>	475	22	3,815	2,278
<u>Youth Service Program Count:</u>	24	34	75	86
<u>Youth Service Attendance:</u>	556	634	2,626	2,425
<u>Database Usage:</u>	1,449	681	10,427	1,541
<u>Adult Computer Usage:</u>	4,579	5491	17,304	18,366
<u>Youth Services Computer Usage:</u>	906	881	3,935	3,731
<u>Room Reservations</u>	5	7	22	34
<u>New Adds:</u>	421	436	1,852	1,716
<u>Volunteer Hours Worked:</u>	101	155	389	530

OCTOBER 2007



Agenda Item

December 14, 2009

TO: Honorable Mayor and City Council through City Administrator

FROM: N. Robert Shields, City Attorney

SUBJECT: Procedural Amendments to Building Code Ordinance

COUNCIL GOAL:

Refine City Policies. Complete long-range financial plan; create clear municipal regulations and codes for greater understanding and eliminate unnecessary over-regulation.

RECOMMENDATION:

Adopt the attached ordinance amending Ordinance 2415 (the Building Code Ordinance) so that it conforms to state law.

BACKGROUND:

The Building Code Ordinance currently provides that violations of the State Building Code constitute a Class 1 Civil Infraction and are processed through the Woodburn Municipal Court by a judicial proceeding.

The 2009 Legislature passed Senate Bill 915 (attached), which requires that violations of the State Building Code must be processed through a Civil Penalty with an appeal process that is by a non-judicial proceeding.

DISCUSSION:

The proposed ordinance amends the Building Code Ordinance to comply with the requirements of Senate Bill 915. More specifically, it amends Section 15 of Ordinance 2415 and adds additional sections 15A and 15B to create a non-judicial Civil Penalty and an administrative appeals process that conforms to the requirements of the new legislation.

Because Senate Bill 915 is effective on January 1, 2010 and there will be no second City Council meeting in December, an emergency clause was added to the proposed ordinance that sets an effective date of January 1, 2010.

FINANCIAL IMPACT:

None.

Attachment: Senate Bill 915
 Ordinance 2415

Enrolled Senate Bill 915

Sponsored by Senator MORSE

CHAPTER

AN ACT

Relating to the regulation of structures.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 455.

SECTION 2. (1) The Legislative Assembly finds and declares that enforcement of the state building code in a fair, equitable and uniform manner throughout this state is a matter of state concern.

(2) If a municipality administers a building inspection program under ORS 455.148 or 455.150, a monetary penalty assessed under the program for a violation must be assessed as a civil penalty. This subsection does not prohibit a municipality from charging a violator an increased permit fee or investigative fee, seeking injunctive relief from a violation or taking any enforcement action that does not include a monetary penalty. This subsection does not limit the terms or conditions of any voluntary agreement for the resolution of a violation.

(3) A municipality may not assess a civil penalty for a violation under a building inspection program unless the municipality provides to the party that is subject to the civil penalty:

(a) Notice that:

(A) Describes the alleged violation, including any relevant code provision numbers, ordinance numbers or other identifying references;

(B) States that the municipality intends to assess a civil penalty for the violation and states the amount of the civil penalty;

(C) States that the party may challenge the assessment of a civil penalty; and

(D) Describes the means and the deadline for informing the municipality that the party is challenging the assessment of the civil penalty; and

(b) A municipal administrative process other than a judicial proceeding in a court of law, that affords the party an opportunity to challenge the civil penalty assessment before an individual, department or body that is other than the municipality's building inspector or building official.

(4) If the municipality assesses a civil penalty for a violation under a building inspection program, the amount of the civil penalty assessed for the violation may not exceed the maximum civil penalty amount authorized for an equivalent specialty code violation under ORS 455.895.

(5) The costs incurred by a municipality in providing notice and administrative process under this section are building inspection program administration and enforcement costs for the purpose of fee adoption under ORS 455.210.

SECTION 3. Section 2 of this 2009 Act applies to a civil penalty assessed on or after the effective date of this 2009 Act for a violation occurring before, on or after the effective date of this 2009 Act.

Passed by Senate May 4, 2009

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Secretary of Senate

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President of Senate

Passed by House June 2, 2009

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Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

.....
Secretary of State

COUNCIL BILL NO. 2650

ORDINANCE NO. 2415

AN ORDINANCE ADOPTING CERTAIN STATE SPECIALTY CODES; SETTING FORTH THE POWERS AND DUTIES OF THE BUILDING OFFICIAL; PROVIDING FOR PROCEDURES AND FEES; ESTABLISHING PENALTY PROVISIONS; REPEALING ORDINANCE 2293 AND DECLARING AN EMERGENCY.

WHEREAS, the State of Oregon regularly adopts certain specialty codes; and

WHEREAS, the City has established a building inspection program under state statutes and the administrative rules of the State Building Codes Division; and

WHEREAS, under the authority of ORS 455.150, the City of Woodburn administers those specialty codes and building requirements adopted by the state which the City of Woodburn is granted authority to administer; and

WHEREAS, it is necessary for the City to periodically adopt the most recent additions of the state specialty codes so that they can be enforced and administered within the corporate limits of the City; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions. For the purpose of this Ordinance, the following terms shall mean:

- A. Building Official - means the City of Woodburn Building Official who is responsible for building inspections and with the administration and enforcement of this ordinance.
- B. State Building Code - or "the code" means the combined specialty codes adopted by this ordinance.

Section 2. State Codes Adopted. The following codes, standards and rules are adopted and are by this reference incorporated herein and shall be in force and effect within the corporate boundaries of the City of Woodburn:

A. The Oregon Structural Specialty Code, as adopted by the State of Oregon, including the following administrative provisions:

1. Section 104.2 (Applications and permits).
2. Section 104.4 (Inspections).
3. Section 104.7 (Liability).
4. Section 104.8 (Approved materials and equipment).
5. Section 104.9 (Modifications).
6. Section 104.10 (Alternate materials, design and methods of construction and equipment).
7. Section 104.11 (Requests for rulings).
8. Section 105.3.2. (Time limit of application). "An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extensions of time for an additional period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated."

B. The Oregon Mechanical Speciality Code, as adopted by the State of Oregon, including the following administrative provision:

1. Section 106.4.3. (Time limit of application). "An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extensions of time for an additional period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated."

C. The Oregon Residential Specialty Code, as adopted by the State of Oregon, including the following administrative and automatic fire sprinkler system provisions:

1. Section 105.3.2 (Time limit of application). "An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good

faith or a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated."

2. Sections AN109.4.2 through AN109.4.3 (Fire sprinkler system requirements).

3. Section AN109.4.3 (Definition: Substantially altered or damaged). "The valuation to repair or alter the building or structure exceeds 60 percent of the value of that portion of the building or structure as defined in the building code and determined by the Building Official."

D. The Oregon Plumbing Specialty Code as adopted by the State of Oregon.

E. The Electrical Safety Law as contained in ORS 479.510 to 479.995.

F. The Oregon Fire Code Amendments, as adopted by the State of Oregon;

G. Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230;

H. Manufactured dwelling park and mobile home park requirements under ORS Chapter 446;

I. Park and camp program requirements under ORS 455.680;

J. Tourist facility requirements under ORS 446.310 to 446.350;

K. Manufactured dwelling alterations under ORS 446.155; and

L. Manufactured structure accessory buildings and structures under ORS 446.253.

Section 3. Powers and Duties of the Building Official. The Building Department shall be under the administrative and operational control of the building official. The building official shall have the power to render written and oral interpretations of the code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of the code. The building official is authorized to enforce all the provisions of the code.

Section 4. Right of Entry. When it is necessary to make an inspection to enforce the state building code, or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of the code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by the code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

Section 5. Stop Work Orders. Whenever any work is being done contrary to the provisions of the code, or other pertinent laws or ordinances implemented through the enforcement of the code, the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing such work to be done. Such person(s) shall forthwith stop such work until specifically authorized by the building official to proceed with the work. Notwithstanding the other remedies, if the building official determines that any building under construction, mechanical work, electrical work, or plumbing work on any building or structure poses an immediate threat to the public health, safety or welfare, the building official may order the work halted and the building or structure vacated pending further action by the city and its legal counsel.

Section 6. Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect fuel-gas utility service, or energy supplies to a building, structure, premises or equipment regulated by the code in case of emergency when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection immediately thereafter.

Section 7. Connection After Order to Disconnect. Persons shall not make connections from an energy, fuel or power supply nor supply energy or fuel to any equipment regulated by the code which has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnecting and use of such equipment.

Section 8. Occupancy Violations. Whenever any building or structure or equipment is being used contrary to the provisions of the code, the building official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use. Such person shall discontinue the use within the time prescribed by the building official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of the code.

Section 9. Appeals Process. When there is an appeal of a staff interpretation of the code during plan review or inspection, the aggrieved persons shall be notified of the provisions of ORS 455.475 and the following procedures:

A. Plan Review. In an informal appeal of a plans examiner's decision, the plans examiner shall refer the request and any related information to the building official who, in consultation with appropriate technical staff, shall review the request and make a final determination in writing to the applicant within 15 days.

In an informal appeal of the building official's decision, the request shall be forwarded to the State of Oregon, Building Codes Division staff person responsible for interpretations. Formal appeals shall be forwarded to the appropriate state board at the Building Codes Division for final action. The appeal shall be sent to the Department of Consumer Business Services, Building Codes Division accompanied by the required fee, a completed appeal form of the department, and justification for the request along with any supporting information. (ORS 455.690)

B. Inspection. When there is an appeal of a field inspector's interpretation of a particular code, the following process shall be used:

1. The field inspector shall refer the customer and related information to the building official. The building official, in consultation with appropriate technical staff, shall review the request and make a final decision in writing to the customer within 15 days.

2. Formal appeals of the building official shall be forwarded to the appropriate state board for final action. The appeals shall be sent to the Department of Consumer Business Services, accompanied by the required fee, a completed appeal form of the department, and justification for the request along with any supporting information. (ORS 455.690)

3. In accordance with ORS 455.690, any person aggrieved by a final decision may, within 30 days after the date of the decision, appeal to the appropriate state advisory board as listed below:

- Structural Code - Building Codes Structures Board
- Mechanical Code - Mechanical Board
- Residential Code - Residential Structures Board
- Plumbing Code – Oregon State Plumbing Board
- Electrical Code – Electrical & Elevator Board
- Manufactured Home Installation Standard - Manufactured Structures & Parks Board.
- Park & Camp Rules - Manufactured Structures & Parks Board

C. Appeals of Board Decisions. Judicial review of the decision of advisory boards shall be available as provided in Oregon Revised Statutes Chapter 183.

Section 10. Permits Not Transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

Section 11. Suspension/Revocation. The building official may, in writing, suspend or revoke a permit issued under the provisions of the state building code whenever the permit is issued in error or on the bases of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of the code.

Section 12. Inspections. It shall be the duty of the permit holder or his agent to request all necessary inspections in a timely manner, provide access to the site, and provide all necessary equipment as determined by the building official. The permit holder shall not proceed with the building construction until authorized by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

Section 13. Fees.

A. Fees for permits, inspections, plan checks, site plan review, copy costs, and such other fees that the City Council deems reasonable in order to administer this ordinance shall be set by ordinance or resolution.

B. The building official may authorize the refunding of fees paid in accordance with the refund policy in effect.

C. The determination of value or valuation under any provisions of the state building code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent or attached equipment.

Section 14. Savings Clause. If any section, paragraph, subdivision, clause, sentence, or provisions of the ordinance shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the ordinance.

Section 15. Violation-Penalty-Remedies.

A. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, occupy or maintain a building or structure in the city, or cause the same to be done contrary to or in violation of this ordinance.

B. No person shall install, alter, replace, improve, convert, equip or maintain any mechanical equipment or system in the city, or cause the same to be done contrary to or in violation of this ordinance.

C. No person shall install, alter, replace, improve, convert, equip or maintain any plumbing or drainage piping work or any fixture or water heating or treating equipment in the city, or cause the same to be done contrary to or in violation of this ordinance.

D. No person shall install, alter, replace, improve, convert, equip or maintain any electrical equipment or system in the city, or cause the same to be done contrary to or in violation of this ordinance.

E. Each violation of a provision of this chapter constitutes a Class 1 civil infraction and shall be processed in accordance with the procedures set forth in the civil infractions ordinance.

F. Each day that a violation of a provision of this chapter exists constitutes a separate violation.

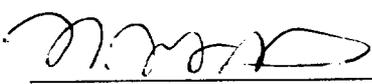
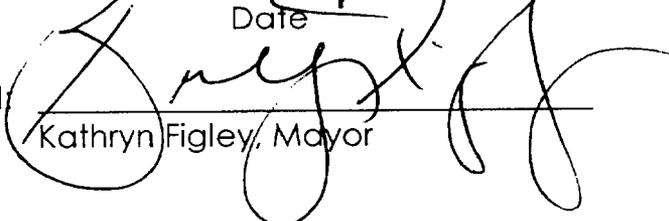
G. Notwithstanding the other remedies in this chapter, if the building official determines that any building under construction, mechanical work,

electrical work, or plumbing work on any building or any structure poses an immediate threat to the public health, safety or welfare, the building official may order the work halted and the building or structure vacated pending further action by the city and its legal counsel.

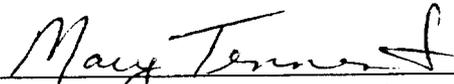
H. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available under city ordinance or state statute.

Section 16. Repeal. Ordinance No. 2293 is hereby repealed.

Section 17. Emergency Clause. This ordinance being necessary for the immediate preservation for the public peace, health, and safety so that the current state codes can be applied without delay, an emergency is declared to exist and this ordinance shall take effect immediately upon passage and approval by the Mayor.

Approved as to form:  12/6/2006
City Attorney Date
Approved: 
Kathryn Figley, Mayor

Passed by the Council December 11, 2006
Submitted to the Mayor December 13, 2006
Approved by the Mayor December 13, 2006
Filed in the Office of the Recorder December 13, 2006

ATTEST: 
Mary Tennant City Recorder
City of Woodburn, Oregon

COUNCIL BILL NO. 2805

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE 2415 (THE BUILDING CODE ORDINANCE) TO CONFORM TO SENATE BILL 915; SETTING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY

WHEREAS, Ordinance 2415 establishes that violations of any provision of the State Building Code constitutes a Class I Civil Infraction and shall be processed through a judicial proceeding; and

WHEREAS, the 2009 Legislature passed Senate Bill 915 requiring violations of the State Building Code to be processed by assessing a civil penalty with an administrative appeal process that is by a non-judicial proceeding; and

WHEREAS, amending Ordinance 2415 is necessary to comply with the changes in State law; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Ordinance 2415, Section 15 is amended to read as follows:

Section 15 Violations; Penalties; Remedies.

A. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building or structure in the City, or cause the same to be done, contrary to or in violation of this Ordinance.

B. No person shall install, alter, replace, improve, convert, equip or maintain any mechanical equipment or system in the City, or cause the same to be done contrary to or in violation of this Ordinance.

C. No person shall install, alter, replace, improve, convert, equip or maintain any plumbing or drainage piping work or any fixture or water heating or treating equipment in the City, or cause the same to be done contrary to or in violation of this Ordinance.

D. No person shall install, alter, replace, improve, convert, equip or maintain any electrical equipment or system in the City, or cause the same to be done contrary to or in violation of this Ordinance.

E. Violation of a provision of this Ordinance shall be subject to a Civil Penalty not exceeding \$5,000.00 for a single violation of \$1,000.00 for continuing violations and shall be processed in accordance with the procedures set forth in this Ordinance.

F. Each day that a violation of a provision of this Ordinance exists constitutes a separate violation.

G. The penalties and remedies provided in this section are not exclusive and are in addition to all other penalties and remedies available to the City.

H. Notwithstanding the other remedies in this Ordinance, if the Building Official determines that any building under construction, mechanical work, electrical work, or plumbing work on any building or any structure poses an immediate threat to the public health, safety or welfare, the Building Official may order the work halted and the building or structure vacated pending further action by the City and its legal counsel.

Section 2. Ordinance 2415 is further amended to provide additional sections, as follows:

Section 15A Building Official • Authority to Impose Administrative Civil Penalty.

A. In addition to, and not in lieu of, any other enforcement mechanism authorized by this Ordinance, upon a determination by the Building Official that a person has violated a provision of this Ordinance, the Building Official may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

B. Prior to imposing an administrative civil penalty under this section, the Building Official shall pursue reasonable attempts to secure voluntary correction, failing which the Building Official may issue a notice of civil violation to one or more of the responsible persons to correct the violation. Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than five calendar days.

C. Following the date or time by which the correction must be completed as required by an order to correct a violation, the Building Official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the Building Official may impose a civil penalty on each person to whom an order to correct was issued.

D. Notwithstanding subsection (B) above, the Building Official may impose a civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the Building

Official determines that the violation was knowing or intentional or a repeat of a similar violation.

E. In imposing a penalty authorized by this section, the Building Official shall consider:

1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
2. Any prior violations of statutes, rules, orders, and permits;
3. The gravity and magnitude of the violation;
4. Whether the violation was repeated or continuous;
5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
6. The violator's cooperativeness and efforts to correct the violation; and
7. Any relevant provision of the Building Code or City Ordinance.

F. The notice of civil penalty shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. A notice of civil penalty shall include:

1. Reference to the particular code provision 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;
4. The date on which the order to correct was issued and time by which correction was to be made, or if the penalty is imposed pursuant to subsection (D), a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated; and
5. A statement of the party's right to appeal the civil penalty to the City Administrator or City Administrator's designee.

G. Any person who is issued a notice of civil penalty may appeal the penalty to the City Administrator or City Administrator's designee. The City Administrator's designee shall not be the Building Official or Building Inspector.

H. 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 Administrator or City Administrator's designee pursuant to, and within the time limits established by this Ordinance. If the responsible person appeals the civil penalty to the City Administrator or City Administrator's designee, the penalty shall become final, if at all; upon issuance of the City Administrator or City Administrator's designee's decision affirming the imposition of the administrative civil penalty.

I. Each day the violator fails to remedy the violation shall constitute a separate violation.

J. Failure to pay a penalty imposed hereunder within ten days after the penalty becomes final as provided in subsection (H) shall constitute a violation of this Ordinance. Each day the penalty is not paid shall constitute a separate violation. The Building Official also is authorized to collect the penalty by any administrative or judicial action.

The civil administrative penalty authorized by this section shall be in addition to:

1. Assessments or fees for any costs incurred by the City in remediation, cleanup, or abatement, and
2. Any other actions authorized by law.

K. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this Ordinance resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty become final, the Building Official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of City liens. At the time such an assessment is made, the Building Official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of City liens.

L. In addition to enforcement mechanisms authorized elsewhere in this Ordinance, failure to pay an administrative civil penalty imposed pursuant to subsection (A) of this section shall be grounds for withholding issuance of requested permits or licenses, or revocation or suspension of any issued permits or certificates of occupancy.

M. This Ordinance does not prohibit the City from charging an increased permit fee or investigation fee, seeking injunctive relief from a

violation or taking any enforcement action that does not include a monetary penalty.

Section 15B Appeal Procedures.

A. A person aggrieved by an administrative action of the Building Official taken pursuant to a section of this Ordinance authorizing an appeal under this section may, within 15 days after the date of notice of the action, appeal in writing to the City Administrator or City Administrator's designee. The appeal shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives the objections, and the appeal shall be dismissed.

B. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.

C. Unless the appellant and the City agree to a longer period, an appeal shall be heard by the City Administrator or City Administrator's designee within 30 days of the receipt of the notice of intent to appeal. At least 10 days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.

D. The City Administrator or City Administrator's designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Administrator or City Administrator's designee deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel.

E. The City Administrator or City Administrator's designee shall issue a written decision within 10 days of the hearing date. The decision of the City Administrator or City Administrator's designee after the hearing is final.

Section 3. This Ordinance being necessary for the immediate preservation of the public peace, health and safety so that the City can modify its Ordinance to conform to State law, an emergency is declared to exist and this Ordinance shall take effect on January 1, 2010.

Approved as to Form: _____
City Attorney Date

APPROVED _____
KATHRYN FIGLEY, MAYOR

Passed by the Council _____
Submitted to the Mayor _____
Approved by the Mayor _____
Filed in the Office of the Recorder _____

ATTEST: _____
City Recorder
City of Woodburn, Oregon



Agenda Item

December 14, 2009

TO: Honorable Mayor and City Council through City Administrator

FROM: Dan Brown, Public Works Director

SUBJECT: **RESOLUTION AUTHORIZING THE ESTABLISHMENT OF PRIMARY AND SECONDARY DISINFECTION OF THE WATER SUPPLY SYSTEM**

RECOMMENDATION:

Adopt resolution directing staff to proceed with the establishment of primary and secondary disinfection of the City’s Water Supply System. Disinfection processes may include the use of chlorine to most effectively provide the highest quality of water to the residents of Woodburn.

BACKGROUND:

The City of Woodburn currently does not disinfect its water supply system. Under current federal and state regulations, the City is not required to disinfect its water supply system because the source of its water supply is groundwater.

Current groundwater regulations are under review as our nation’s groundwater supply quality becomes less pure and subject to contamination.

The City has encountered incidents of its water supply quality being degraded due to the presence of organisms in the water delivered to end users. It has been determined that the degradation of the water quality in the supply system is occurring in the distribution system.

DISCUSSION:

The City, through Council policy and direction, has historically elected to not disinfect its water supply system. This policy was established on the following premises:

- No federal or state regulatory requirement exists that requires the City to disinfect its water supply system because the water source was groundwater.

- Concern of the potential health risks associated with disinfection byproducts as some research indicates that certain byproducts of water disinfection are linked to increases in cancer incidence, including bladder cancer.
- A technical recommendation that the new water treatment facilities did not require disinfection capacity.

The City has experienced incidences of substandard water quality being provided at point of use. In fact, since 1992 there have been 32 routine sampling sets that tested positive for Total Coliform. Of those positive sampling sets, 24 of them eventually tested negative with the repeat samples.

The presence of total coliforms indicates potential problems with microbial water quality and triggers testing for fecal coliform and E. Coli. Fecal coliforms and E. Coli are bacterial contaminants whose presence indicates that the water may be contaminated with human or animal wastes, and urgent action is needed to protect the health of the community, including advising water users to boil drinking water or use alternate water supplies. Microbes in these water supplies can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children and people with severely compromised immune systems. The EPA is currently conducting a review of the Total Coliform Rule and may provide significant changes that affect distribution water quality and operations.

Regulations of specific disease causing (pathogenic) microbial organisms including Cryptosporidium, Giardia lamblia, enteric viruses and Legionella are typically associated with water systems that use surface water supplies; however, groundwater that is under the influence of surface water may also contain these contaminants. Requirements for microbial contaminants of these pathogenic organisms can also include indicators of microbial contamination including heterotrophic plate count bacteria (HPC), and turbidity.

Because the City has currently adopted a policy of not disinfecting its water supply system, it is extremely vulnerable to pathogenic microbial organisms. Public Works believes this vulnerability is most associated with the 98 miles of water main piping through the City's distribution system. This system varies in age and integrity. While the City has invested heavily in facilities to provide primary treatment for the removal of iron, manganese, and other undesirable elements and compounds, to address water quality, it has not identified what happens to that treated water when it enters the distribution system.

Only recently has the Public Works Department expanded the dialog with Council to include the entire water distribution system and its affect on water quality for the residents of Woodburn. Only recently has the water supply industry and regulatory authorities realized that policies and regulations must address the entire water supply system. In the past, the decision was based upon the water supply source. Today, the entire water supply system must be considered when determining whether and what type of disinfection of the water supply system is needed. New regulations may require the City to chlorinate. The Groundwater Rule requires assessment of the City's water supplies for potential viral contamination and completion of sanitary surveys every five years. The State could require chlorination based on distribution water quality issues as part of the sanitary survey if it is considered significantly deficient.

The City has reviewed and studied the need for primary and secondary disinfection for the water supply system for the past year. Considerable research and discussion between Council and staff has transpired over the last year. There is compelling justification for the City to adopt a policy to provide primary and secondary disinfection to the water supply system to provide adequate public safety and health and to improve the overall water quality.

Because this decision and establishment of public policy impacts every resident of the City of Woodburn, the Public Works Department will host a series of Open Houses within the neighborhoods. The Open Houses will be formatted to provide public information regarding the need for and methodologies being evaluated to provide both primary and secondary disinfection of the City's water supply system. The recommendation for solution presented to Council will include public comment received as a result the Open Houses and public information efforts during design development. Solicitations will be made at the Open Houses for volunteers to continue to participate in the citizen involvement by applying for appointment to the Citizen Advisory Committee.

Upon completion of the design of the water system disinfection process, Council will be briefed on the design solution and requested authorization to advertise for issuance of a construction contract to install the disinfection system. At this decision point, Council will know the design solution for providing disinfection, estimated cost for installation, and public response to the design solution.

FINANCIAL IMPACT:

The proposed resolution will allow the Public Works Department to expend existing water capital construction funds in reserve within the Water System

Construction Fund (Fund 466) to design and install primary and secondary disinfection of the water supply system.

An increase in water rates to offset this capital improvement will **not** be necessary to fund the disinfection system installation project.

COUNCIL BILL NO. 2806

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO EXPEND FUNDS FOR PRIMARY AND SECONDARY DISINFECTION OF THE WATER SUPPLY SYSTEM IN ACCORDANCE WITH BEST PRACTICES AND FEDERAL AND STATE REGULATORY GUIDELINES

WHEREAS, the City Council acknowledges that the City has experienced deficiencies in the quality of water provided through the City's water supply system; and

WHEREAS, the City Council acknowledges that the public health and safety of the residents is a fundamental responsibility of local government and directly impacted by the quality of water provided through the City's water supply system; and

WHEREAS, the City Council acknowledges that the quality of life sustained within the community can be adversely affected by not providing essential services, such as water free of undesirable organisms, odors, and turbidity; and

WHEREAS, the City Council has received a recommendation from the Public Works Department that the addition of primary and secondary disinfection of the water supply system will allow a more efficient and effective means to provide City residents the highest possible quality of water that is free of pathogens, undesirable organisms, odors, and turbidity; and

WHEREAS, the City Council acknowledges that the implementation of a policy to provide primary and secondary disinfection of the City's water supply system will directly impact each resident of Woodburn, and;

WHEREAS, the City Council desires the subject policy to be implemented with due diligence and citizen participation to include public outreach and education; and

WHEREAS, the City Council desires to review the design solution, implementation process, engineer's cost estimate, and public comment received during design development prior to authorizing the construction contract to be advertised for bid, **NOW, THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. The City Council hereby determines that primary and secondary disinfection of the water supply is in the health and safety interest of the City residents of Woodburn.

Section 2. The Public Works Department is authorized to expend City funds from Fund 466 to evaluate primary and secondary disinfection of the water supply systems select a preferred method, complete design, prepare contract documents, and conduct a public outreach and education process to present to Council a design acceptance package for approval prior to advertising for bid.

Section 3. The City Administrator is authorized to identify and adopt appropriate City administrative procedures and programs to assist those residents that are adversely impacted by the water supply system primary and secondary disinfection system.

Approved as to form: _____
City Attorney Date

Approved: _____
Kathryn Figley, Mayor

Passed by the Council _____

Submitted to the Mayor _____

Approved by the Mayor _____

Filed in the Office of the Recorder _____

ATTEST: _____
Christina Shearer, City Recorder
City of Woodburn, Oregon



Agenda Item

December 14, 2009

TO: Honorable Mayor and City Council through City Administrator
FROM: Dan Brown Public Works Director
SUBJECT: **PROFESSIONAL SERVICES CONTRACT TO CH2M HILL CONSULTANT
WASTEWATER SYSTEM IMPROVEMENTS**

RECOMMENDATION:

Council, as Local Contract Review Board, by motion authorize the City Administrator to enter into a Professional Services contract with CH2M Hill to provide design service for pre-design, final design and construction services for Wastewater Pumping, Treatment Facility Upgrades and Natural Treatment System improvements.

BACKGROUND:

On December 10, 2007 Council awarded a Professional Services contract to CH2M Hill. The selection process was based on qualifications and a fee was negotiated. The Contract was to provide professional services for the wastewater facilities plan update which identified the needed wastewater system improvements for the next planning period. The City received three responses to a request for proposal based on qualifications for the wastewater facility plan update. The evaluation committee selected CH2M Hill as the most qualified consultant that best fit the City need. The City followed a formal selection process which complied with the Model Rules for Public Contracting, ORS 279A.065.

The Attorney General's Public Contracting Manual, Public Contracting Code, 137-048-0200 allows for a direct appointment procedure for continuation of professional contact services by a contract amendment or a separate contract by local contracting agency if the professional services to be performed under the contract:

Agenda Item Review: City Administrator City Attorney Finance

A. Consist of or are related to Architectural, Engineering and Land Surveying Services or Related Services that have been substantially described, planned or otherwise previously studied in an earlier Contract with the same Consultant and are rendered for the same Project.

B. Local Contracting Agency used a formal selection procedure described in rules applicable to Local Contracting Agency under either ORS 279.049 or 279A.065, whichever was in effect at the time Local Contracting Agency selected Consultant for the earlier Contract.

The award of the contract to CH2M Hill for continuation of professional services complies with the above provisions. With the work completed on the wastewater facility plan update, CH2M Hill has studied and analyzed the identified project improvements. The first phase of improvements in the wastewater facility plan, and specifically those identified to meet compliance of the Mutual Agreement and Order (MAO) with the Department of Environmental Quality (DEQ), have been determined, analyzed, and studied by CH2M Hill. CH2M Hill provided the City with the technical support for the preparation of the Temperature and Wintertime Evaluation Report that was submitted and approved by DEQ. The initial selection process utilized by the City complied with the Public Contracting Model Rules, ORS 279A.065. A formal selection process was followed and CH2M Hill was selected and awarded the contract based on experience and qualifications.

CH2M Hill prior selection based upon practical experience and qualifications to perform design services on the Wastewater Facilities Plan Project, has placed them in a position to have obtained knowledge that the City would have to pay another firm to obtain. Additionally, another qualified firm would have to review and validate previous work performed by CH2M Hill to incorporate into their design solutions. Therefore, the City can reduce the professional services costs incurred and realize a scheduling advantage to meet the compliance schedule and deadlines of the MAO with DEQ. The MAO requirements for professional services to provide Pre-design, Final Design, and fast track construction to meet the compliance schedule dictates continuity of the consulting firm providing professional services and does not allow sufficient time to proceed with a new competitive selection process for each phase of the compliance process.

DISCUSSION:

On June 19, 2007 the Department of Environmental Quality (DEQ) and the City of Woodburn entered into Mutual Agreement and Order (MAO) Case No,

WQ/M-WR-07-082. The MAO included interim effluent limitations and schedules for completing improvement to the wastewater facility in order to comply with the National Pollutant Discharge Elimination System (NPDES) permit limits and conditions.

Paragraph 10.A.a of the MAO required the Permittee to submit to the Department for approval an evaluation report that specifies whether or not the treatment facilities can comply with the Pudding River Total Maximum Daily Load (TMDL) thermal waste load allocations and winter time ammonia limits. The report was due by no later than four (4) months after establishment and approval of the Pudding River TMDL. The City submitted the report within the required timeline. DEQ approved the evaluation report and notified the city of that acceptance by letter dated July 2, 2009

Paragraph 10.A.b. of the MAO required that by no later than one year after Department approval of the evaluation report, the Permittee shall submit to the Department for approval, final engineering plans and specifications for the necessary corrective actions and improvements outlined in the evaluation report.

As part of the Temperature and Wintertime Limits Evaluation Report submitted to DEQ, staff requested they consider a timeline extension to the compliance schedule deadlines in the MAO. The improvements identified in the report suggested that a permitting component at minimum should be incorporated. Specifically, with regard to the outfall construction, the Army Corps of Engineers 404 permit application which addresses in-stream work for remove and fill, and wetland impacts. The environmental permits cannot be submitted to the appropriate agency until after the Pre-design is completed and project has been described in enough detail to prepare the permit applications. DEQ also suggested a start up/evaluation period be built into the end the schedule to determine how successful the thermal reduction is for compliance with the thermal load limit.

Per the City's request, staff received from DEQ, by letter dated November 6, 2009 the following modifications to the Mutual Agreement and Order WQ/M-WR-07-082 compliance schedule.

A. Requiring the City to comply with the following schedule:

- 1) By no later than **150 days** after Permittee receipt of the Mutual Agreement and Order Modification letter from DEQ, the Permittee shall

submit to Department for approval a draft Pre-design Report for the necessary corrective actions and improvements to the treatment facilities.

2) By no later than 30 days after Department comments of the draft Pre-design Report, the Permittee shall submit to the Department a finalized Pre-design Report for the necessary corrective actions and improvements to the treatment facilities.

3) By no later the two (2) months after Department approval of the Pre-design Report, the Permittee shall submit documentation that they have submitted an application for an Army Corps of Engineers 404 permit.

4) By no later than fourteen (14) months after submitting the 404 permit application, the Permittee shall submit to the Department for approval final engineering plans and specifications for the necessary corrective actions and improvements to the wastewater treatment facilities.

5) By no later than four (4) months after the Department approval of the final engineering plans, the Permittee shall submit documentation to the Department that contracts for the construction of necessary corrective actions and improvements have been awarded.

6) By no later than one (1) year after contracts for construction have been awarded, the Permittee shall submit to the Department a progress report on the construction of all necessary improvements.

7) By no later than two (2) years after the contracts for construction have been awarded the Permittee shall complete all necessary corrective actions and construction of all necessary improvement to bring the facility into compliance with the winter period ammonia limits and the Excess Thermal Load limit based upon Waste Load Allocation contained in the TMDL.

8) By no later than one (1) year after completing all necessary improvements, the Permittee shall submit to the Department, an evaluation of the ability of the facility to discharge in compliance with the winter period ammonia limits and the excess thermal load limit. If the evaluation indicates the discharge cannot consistently comply, the evaluation shall also include the time line schedule and list of

corrective actions as determined by the evaluation to comply with the limits.

9) By no later than thirty (30) days after Department approval of the time line schedule and list of corrective actions, the Permittee shall begin implementation of the corrective actions.

10) By no later than six months after beginning implementation of the corrective actions, the Permittee shall complete the necessary corrective actions and improvements to bring the facility into compliance.

11) By no later than sixty (60) days after completing the corrective actions, the Permittee shall comply with the winter period ammonia limits and Excess Thermal Load Limit based on the Waste Load Allocation in the TMDL.

Although the compliance deadlines have been extended, the modifications require the City to aggressively move forward. The first task on the critical path is getting the consultant under contract and move the Pre-design effort forward. The draft Pre-design report must be submitted to DEQ by April 9, 2010.

CH2M HILL prepared the final draft of the wastewater facilities plan for the City of Woodburn identifying wastewater system improvements for the next planning period. The City Council approved the draft wastewater facilities plan on October 26, 2009. CH2M Hill also assisted the City in preparation of the Temperature and Wintertime Ammonia Evaluation Report based on the findings of the wastewater facility plan

The recommended improvements identified in the plan are driven by a combination of triggers: capacity (capacity shortfalls and capacity for growth), water quality, reliability, and the need to maintain the condition of system components. A phased implementation schedule was developed for the improvements based on approximate trigger dates, starting with improvement needed in 2010-2012. The Pre-design work will include the improvements with trigger dates of 2010-2013 in the wastewater facility plan. This will include the most critical improvements required based on timing of those required to meet the city's modified Mutual Agreement and Order WQ/M-WR-07-082 dated November 6, 2009. These improvements are listed in Table 1.

The Pre-design work will also include an alternative project delivery analysis of improvements recommended by Pre-design report.

TABLE 1 -
Pre-design 2010 – 2013 Recommended Improvements

Project Component	Details
Mill Creek Pump Station Improvements Phase 1	Install low flow pump
POTW Upgrades	
Convert wet weather clarifiers to primary clarifiers	Rehabilitate wet weather clarifiers
Upgrade blower and aeration system*	Replace valves, instrumentation, and blowers.
Contact stabilization modifications*	Install piping to allow flow to be diverted to the midpoint of the aerated zone under high flow conditions
Expand existing UV system	Replace blanks in existing Trojan UV units with UV lamp assemblies and make minor channel improvements
Construct bypass around aerator	Construct a piped bypass around the aeration structure in Outfall 001A
Condition improvements	Provide improvements throughout the POTW to improve operation and maintenance.
Install additional emergency generator	Meet Class 1 reliability standards.
Reuse and Discharge Improvements (Natural Treatment Systems)	
Lagoon Wetlands*	Develop constructed wetlands for effluent cooling within the existing

TABLE 1 -
Pre-design 2010 – 2013 Recommended Improvements

	effluent lagoon
Floodplain Wetlands*	Develop constructed wetlands for effluent cooling within the floodplain area of adjacent City-owned land
Poplar Tree Irrigation Expansion*	Expand poplar tree plantation onto City-owned land including extension of effluent irrigation and biosolids distribution facilities
Pudding River Outfall*	Develop a new Pudding River outfall with supporting conveyance

*Improvements Required by MAO.

At the completion of Pre-design, the project design will be approximately 30% complete, alternatives analysis will be complete and major process elements, equipment and structure sizes; major pipe and electrical conduit routing will be known. The Pre-design will present the layout of facilities, structures, and major equipment for review by DEQ. The Pre-design will incorporate sufficient detail to show accessibility of equipment, operability and maintainability of equipment, clearance around structures and equipment, and general constructability of the facilities. The report will identify key design components that are critical or time sensitive to avoid delay or changes later in Final-design. The report will provide a preliminary schedule and opinion of project costs based on the 30% design. The Pre-design scope and fee for the above improvements is estimated to be approximately \$755,700. This includes the components in Pre-design task only. The Final-design and Construction services scope and fee will be prepared and negotiated separately upon completion of the previous design effort. Staff estimates that the entire fee for design and construction services will be between \$1.5 and \$2 million.

The total estimated capital improvement cost for the identified facilities improvements from the Wastewater Facilities Plan is \$10.8 million. This

estimated project cost includes the estimated construction cost and an additional 25 percent for engineering, administrative and legal fees.

FINANCIAL IMPACT:

The cost of the Pre-design professional services is \$755,700 and cost of the additional professional design services (estimated to be between \$800,000 to \$1.3 million) is included in the adopted 2009/10 budget, the Capital Improvement Program, Sewer Construction Fund (Fund 465).