



AGENDA
April 14, 2014, 6:30PM
CITY COUNCIL CHAMBERS, CITY HALL
29592 ELLENSBURG AVE
GOLD BEACH OR 97444

Call to order: **Time:** _____

1. The pledge of allegiance

2. Roll Call:

	Present	Absent
Mayor Karl Popoff		
Council Position #1 Melinda McVey		
Council Position #2 Larry Brennan		
STARTING VOTE		
Council Position #3 Brice Gregory		
Council Position #4 Doug Brand		
Council Position #5 Tamie Kaufman		
City Administrator Jodi Fritts		
Student Liaison Lyndsey Dixon		

3. Special Orders of Business:

- a. Interview Planning Commission Candidate

4. Consent Calendar (sent separately)

Minutes: August 2012, September 2012, January 2013, February 2013, March 2013, November 2013, February 2014, March 2014

5. Citizens Comments

As presented to the Mayor at the beginning of the meeting

6. Public Hearing

None Scheduled

7. Citizen Requested Agenda Items

None scheduled

8. Public Contracts and Purchasing

None scheduled

9. Ordinances & Resolutions

- a. Resolution R1314-12 Dangerous Building
- b. 1st & 2nd Reading Ordinance 651 temporary change to Ordinance 642
- c. Resolution R1314-11 Planning Commission appointments
- d. Resolution R1314-13 Budget Committee appointments

The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community

10. Miscellaneous Items (including policy discussions and determinations)

- a. Button Lane Dangerous Building update
- b. Adopt-A-Street program policy
- c. Attorney information regarding annexation procedures
- d. LOC survey on medical marijuana
- e. Discuss proposed Budget Calendar

11. City Administrator's Report

To be presented at meeting

12. Mayor and Council Member Comments

- a. Mayor Karl Popoff
- b. Councilors
 - 1) Melinda McVey
 - 2) Larry Brennan
 - 3) Brice Gregory
 - 4) Doug Brand
 - 5) Tamie Kaufman
- c. Student Liaison, Lyndsey Dixon

13. Citizens Comments

As presented to the Mayor at the beginning of the meeting

14. Executive Session

None scheduled

The next scheduled meeting of the Gold Beach City Council is Monday, May 12, 2014 at 6:30PM in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.

The Gold Beach Budget Committee will meet on Tuesday, April 22, 2014 at 6:30PM in the Council Chambers for the first budget hearing on the proposed fiscal year 2014-2015 budget.

15. Adjourn Time: _____

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call 541-247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of discrimination should be sent to: USDA, Attention Director, Office of Civil Rights, Washington, D.C. 20250-9419

The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community



SPECIAL ORDERS OF BUSINESS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 3 a.
Council Meeting Date: April 14, 2014

TITLE: Interview Planning Commission Candidate

SUMMARY AND BACKGROUND:

There are currently two vacancies on the Planning Commission. We appointed two new members last month finally making a quorum of three members. We received another application in February and discussed options for appointment of this individual last month.

THOMAS SCHULTZ – 30322 Goudy Road

Mr. Schultz is a retired law enforcement officer. He formerly served on the Tehama County Planning Commission and was a school board member in his former home of Elkton. Mr. Schultz also served as the Chamber Director in Red Bluff, California.

FINANCIAL IMPACT:

None

DOCUMENTS ATTACHED:

- None

REQUESTED MOTION/ACTION:

Decision regarding appointment of the vacant Planning Commission positions. The Mayor appoints with majority approval of the present council members. I have consulted with our attorney and based on the language of the City Charter both the Mayor and majority council must agree on a candidate in order for an appointment to occur. If the Mayor and the majority council are unable to agree on the candidate, then the position remains vacant.

On the hope that the Mayor and the majority of the council agree on the candidate, I have prepared a resolution for adoption later in the meeting.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council



CONSENT CALENDAR

(MINUTES FOR:

August 2012, September 2012, January 2013, February 2013,
March 2013, November 2013, February 2014, March 2014
SENT SEPARATELY)



ORDINANCES & RESOLUTIONS

RESOLUTION R1314-12

**A RESOLUTION REGARDING THE DANGEROUS BUILDING DETERMINATION
OF A BUILDING LOCATED AT 94270 BUTTON LANE**

WHEREAS, a Dangerous Building Hearing was held on November 25, 2013, pursuant City Code Section 5.370; and

WHEREAS, notice was given of the hearing to the owner(s) of the property located at 94270 Button Lane, Assessor Map number 3714-06CB tax lot 800, according to the above referenced code section; and

WHEREAS, the hearing was conducted according to the procedures outlined in the Code, and evidence was taken in the form of exhibits, and oral and written testimony; and

WHEREAS, the Council continued the hearing until March 10, 2014, to allow the property owner time to address deficiencies the Council noted in the maintenance of the structure; and

WHEREAS, at the resumption of the public hearing on March 10, 2014, the Council found that the owner had done little, if anything, to correct the deficiencies noted in November and on a motion duly made and seconded declared the building located at 94270 Button Lane met the City Code definition of Dangerous Building and therefore is deemed “dangerous” as defined in Section 5.350(1)(d):

d) A structure in such weak or weakened condition, dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.

NOW, THEREFORE, BE IT resolved the City Council of the City of Gold Beach finds that the building located at 94270 Button Lane is a Dangerous Building as defined by City Code.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 14th DAY OF APRIL, 2014.

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 9. b.
Council Hearing Date: April 14, 2014

TITLE: Possible suspension of requirement to allow PC appointment

SUMMARY AND BACKGROUND:

APRIL AGENDA REPORT:

At the March meeting we discussed the possibility of making a special dispensation to allow a second UGB member on the planning commission since we have had such a difficult time filling vacancies on that commission. The Council directed me to prepare an ordinance for review and adoption this month. I have included the initial March report below for reference.

FINANCIAL IMPACT:

None

DOCUMENTS ATTACHED:

Ordinance No. 651, a temporary amendment to the City Administration Code.

REQUESTED MOTION/ACTION:

Decide whether to proceed with the amendment. It is preferred that we do both readings at this meeting. The first reading has to be in its entirety (after the motion, I will read it into the record), the second reading can be by title only.

SUGGESTED MOTION

TWO MOTIONS:

Motion One:

I make the motion that the Council adopt Ordinance 651, an ordinance authorizing a temporary change to the appointment and term of office Section 1.120(2) of the Gold Beach Administration Code, Ordinance 642 and approve the first reading by reading the ordinance into the record.

Motion Two:

I make the motion that the Council adopt Ordinance 651, an ordinance authorizing a temporary change to the appointment and term of office Section 1.120(2) of the Gold Beach Administration Code, Ordinance 642 and approve the second reading by title only.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

FROM MARCH AGENDA REPORT:

Since last summer we have been unable to conduct land use hearings because of a lack of a quorum of planning commission members. Until last month there were four vacancies. If Resolution R1314-10 gets adopted on Monday there will finally be enough members to conduct business. Two vacancies still remain though. In nine months we have received five total applications: two candidates were ineligible. We appointed the three other applicants.

We have received another application just following the February meeting. The applicant has done other volunteer work for the City I feel they would be an excellent candidate. However, he lives in the UGB. When we appointed Robert Chibante he filled the UGB position (he lives on Jerry's Flat Road). I spoke with legal counsel about whether we could make a special dispensation to allow two members to live in the UGB since we have been unsuccessful in finding other in-City eligible candidates.

She advised that the Council could suspend the City Code rules regarding the UGB members in the following manner. I like option #3 because it is specific to the situation.

From Legal Counsel, Lauren Sommers:

Admin Code Section 1.120(2) provides that the "members of the Planning Commission shall meet all of the requirements of ORS 227.030 and at least four (4) of the members shall be residents of the city. One member may be selected from outside the city, but shall reside within the city urban growth boundary as that term is defined in the City Comprehensive Plan." The Council could decide to do something different than currently allowed by the Code, but they would have to do it by ordinance, since an ordinance can only be changed by another ordinance.

The Council can:

- 1) amend the Code to allow more than one Planning Commissioner to reside in the UGB;
- 2) amend the Code to allow the Council to waive residency requirements (probably upon some sort of showing from staff that a position cannot be filled by a City resident); or
- 3) if the Council wants to change the residency requirements for this situation only, they can adopt an ordinance that says something like, "notwithstanding the requirement of Gold Beach Admin Code Section 1.120(2) that only one Planning Commissioner reside outside of the City but within the City's Urban Growth Boundary, the Council hereby appoints _____ to serve as a member of the Gold Beach Planning Commission for a ____ year term beginning _____ and ending _____. All other applicable terms and conditions of the Gold Beach Code shall apply to _____'s service on the Planning Commission."

ORDINANCE NO. 651

AN ORDINANCE AUTHORIZING A TEMPORARY CHANGE TO THE APPOINTMENT AND TERM OF OFFICE SECTION 1.120(2) OF THE GOLD BEACH ADMINISTRATION CODE, ORDINANCE 642

RECITALS:

1. City Administration Code Section 1.120(2) Appointment and Term of Office for Planning Commission members provides that one (1) of the five (5) members may reside outside the corporate city limits but within the urban growth boundary.
2. Unfilled vacancies have persisted on the Planning Commission since May of 2013. An insufficient number of qualified applicants have applied for the vacancies despite diligent recruitment efforts.
3. The UGB member position was filled by an eligible candidate in February. No city resident applications have been received to fill the remaining two vacancies. Another application by a UGB resident was received and the council is desirous to fill one of the two remaining vacancies.

NOW, THEREFORE, THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:

Notwithstanding the requirement of Gold Beach Administration Code Section 1.120(2) that only one Planning Commissioner reside outside of the City but within the City's Urban Growth Boundary, the Council hereby appoints **Thomas Schultz** to serve as a member of the Gold Beach Planning Commission in vacant **Position #3 with a term to expire on December 31, 2017**. All other applicable terms and conditions of the Gold Beach Code shall apply to Mr. Schultz's service on the Planning Commission.

PASSED and ADOPTED by the City Council of the City of Gold Beach, State of Oregon, on this 14th day of April 2014.

Karl Popoff, Mayor

ATTEST:

Jodi Fritts, City Administrator

First Reading in entirety: April 14, 2014

Aye: Nay:

Second Reading by title only: April 14, 2014

Aye Nay

Candy Cronberger, City Recorder

RESOLUTION R1314-11

A RESOLUTION CONFIRMING APPOINTMENTS TO THE PLANNING COMMISSION AND SETTING TERMS OF OFFICE

WHEREAS: The appointment and term of office procedures are set forth in the Gold Beach Administrative Code Section 1.120(2) & (3); and

WHEREAS: Currently two vacancies exist on the Planning Commission; and

WHEREAS: The City Council advertised for interested persons to fill the vacancies;

NOW, THEREFORE, BE IT RESOLVED that the Gold Beach City Council hereby appoints:

Thomas Schultz to vacant Position #3 with an expiration date of December 31, 2017 pursuant to the provisions of Ordinance No. 651.

Reaffirms the previous appointments of:

Position #1:	Kate Rambo	expires December 31, 2017
Position #2:	VACANT	expires December 31, 2015
Position #4	Richard Thompson	expires December 31, 2015
Position #5:	Robert Chibante	expires December 31, 2017 *

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 14th day of APRIL, 2014.

APPROVED BY:

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder

* This position is a UGB position per Administration Code Section 1.120(2)

RESOLUTION R1314-13

**A RESOLUTION CONFIRMING APPOINTMENTS TO THE BUDGET
COMMITTEE AND SETTING TERMS OF OFFICE**

WHEREAS: The appointment and term of office procedures are set forth in the Gold Beach Administrative Code Section 1.125(2) & (3) and Oregon Budget Law; and

WHEREAS: Three vacancies exist on the Budget Committee;

NOW, THEREFORE, BE IT RESOLVED that the Gold Beach City Council hereby reappoints:

Bob Derby to Position #2, term to expire December 31, 2017; and

Dave Sanders to Position #3, term to expire December 31, 2017; and

Reaffirms the previous appointments of:

Position #1:	Sandra Jill Benson	expires December 31, 2014
Position #4:	VACANT	expires December 31, 2014
Position #5:	Olivia Israel	expires December 31, 2014

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 14th DAY OF APRIL, 2014.

APPROVED BY:

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder



MISC. ITEMS

INCLUDING POLICY DISCUSSIONS
& DETERMINATIONS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **10. b.**
Council Hearing Date: April 14, 2014

TITLE: Adopt-A-Street/Grounds Program Policy

SUMMARY AND BACKGROUND:

We were contacted a few months back by a few members of the Pennies-for-Pooches group about “adopting” Airport Way, the road that runs in front of their building. I discussed it with Public Works Superintendent, Will Newdall, and we both agreed it was doable provided we had a program and formal policy in place. We contacted legal counsel and they had a model policy they have used with other cities. Attached is the copy of that policy for your review.

FINANCIAL IMPACT:

None at this time

DOCUMENTS ATTACHED:

Proposed Adopt-A-Street/Grounds Program Policy

REQUESTED MOTION/ACTION:

Decision from the Council on whether to implement this program. If the decision is to proceed I will have a resolution prepared for next month adopting the policy—with any requested changes.

SUGGESTED MOTION

None at this time.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council
Will Newdall, PW Superintendent
Dixon Andrews, Police Chief

Attorney Draft / March 26, 2014
City of Gold Beach
Adopt-A-Street/Grounds Program

Purpose

The purpose of the City of Gold Beach Adopt-A-Street/Grounds program is to provide volunteers with an opportunity to serve as community caretakers, pick up litter, remove noxious weeds, and improve the appearance of city streets and city-owned grounds.

Scope

Any volunteer group, identified as “Adopter” by these rules, may adopt a street/grounds or a portion of a street/grounds for the purpose of picking up litter, removing noxious weeds and other work activities agreed to by the Adopter and the City.

Definitions

As used in these rules, the following definitions will apply:

- (1) “Adopter” means the individual or individuals, corporation, company, firm, business, partnership, or public agency that applies to the Adopt-A-Street/Grounds program and with whom an Agreement is made.
- (2) “Agreement” means a fully executed Agreement between the City and the Adopter that incorporates the requirements of these rules allowing Adopter and its Participants to perform activities listed in a Work Plan. An Agreement includes all attached provisions and exhibits. An Agreement does not convey any property right or interest.
- (3) “City” means the City of Gold Beach.
- (4) “Participant” means the individual actually performing work on a street or grounds pursuant to an Agreement.
- (5) “Street/Grounds” means the properties dedicated to public use and identified as a city street or as city owned property.
- (6) “Work Plan” means a series of work tasks agreed to by the Adopter and the City. A copy of the Work Plan shall be attached to the Agreement.
- (7) “Work Site” means the area where the work is to be conducted.

General Requirements

- (1) The Adopter must apply in writing to Adopt-A-Street/Grounds on a form provided by the City.

(2) The Adopter may indicate a preference for a particular street/grounds or section of street/grounds in the application; however, applications will be processed on a first-come, first-served basis. If the particular street/grounds or section of street/grounds requested by the Adopter has already been adopted, the City Administrator, in his or her sole discretion, may allow multiple adopters to adopt the same location or may suggest an alternate location for adoption.

(3) Once the location to be adopted has been determined, the Adopter and the City Administrator will meet to create a Work Plan. The Work Plan will consist of a series of work tasks, agreed to by both the Adopter and the City Administrator, to be completed by the Adopter during the term of the Agreement. The Work Plan may include dates or time lines for completion of the work tasks. A copy of the Work Plan will be attached to the Agreement.

(4) An Agreement will be executed by the Adopter and the City Administrator. The Agreement will list the specific requirements and obligations of the Adopter, its Participants, and the City. No work is to be done until the Agreement is fully executed. The Adopter should bring a copy of the Agreement to the work site when work is being performed.

(5) The term of the Agreement will be for a period not to exceed _____.

(6) Subcontracting or assigning work to any party other than a Participant, or hiring or paying a wage or salary for work done pursuant to the Work Plan is prohibited and will result in termination of the Agreement.

(7) The City Administrator may terminate an Agreement at any time and for any reason including, but not limited to: safety considerations, failure of the Adopter to perform the work described in the Work Plan, or failure of the Adopter to comply with provisions of the Agreement. Termination may be issued orally or in writing.

(8) The Adopter may terminate the Agreement upon 30 days written notice to the City Administrator.

(9) An Adopter has the option of renewing the Agreement for subsequent terms subject to the approval of the City Administrator. A request for renewal of the Agreement must be submitted in writing, signed by the Adopter and submitted to the City Administrator at least 30 days prior to the expiration date of the Agreement.

(10) Not less than 30 days after any renewal of the Agreement, the City and the Adopter will meet to review and make any changes to the Work Plan. If at any time the Work Plan is amended, the updated version of the Work Plan will be attached to the Agreement.

(11) The Adopter shall not use the adopted street or grounds to display advertising signs or display or sell merchandise of any kind.

Specific Requirements

(1) Adopter and Participant Responsibilities:

(a) The Adopter will be responsible and liable for the care, control, supervision and assurance of safety of all Participants. The Adopter will obtain signed copies of the waiver form provided by the City from each Participant before the Participant performs any work tasks pursuant to the Agreement. The Adopter must submit the original signed waiver form to the City Administrator within five (5) business days of receipt of the form. The Adopter may wish to keep copies of the forms for its records.

(b) The Adopter and each Participant must comply with and abide by all laws, rules, and regulations relating to safety and use of the street/grounds and such other terms and conditions as may be required in the Agreement and the Work Plan. At the discretion of the City Administrator, the Adopter or individual Participants may be excluded from participation in the program and/or the Agreement may be terminated for violation of any laws, rules or regulations or the terms of the Agreement or the Work Plan.

(c) The Adopter will provide adult supervision at the work site by at least one Participant over 18 years of age. No person under 12 years old shall be allowed to participate.

(d) Within 24 hours of an incident, the Adopter is required to report to the City Administrator any injury suffered by an individual: 1) while performing work pursuant to the Work Plan; or 2) while present at the work site while work is performed pursuant to the Work Plan. Upon report of an injury by the Adopter, the City Administrator will provide the Adopter with an incident analysis report form which must be filled out and returned to the City Administrator within 24 hours of the incident.

(e) In addition to any other tasks provided in the Work Plan, the Adopter is to pick up litter at least monthly and to conduct service projects at least two times a year. The City Administrator may modify the minimum clean-up and service requirements included in the Work Plan if, in the opinion of the City Administrator, such modifications are warranted based on the condition and appearance of the adopted park.

(f) The Adopter agrees to indemnify, defend, and hold harmless the City of Gold Beach and its officers, employees, agents and volunteers from and against any claim or demand for loss, liability, or damage, including claims for property damage and personal injury arising out of or related to any activity undertaken by the Adopter or the Adopter's employees, officials, agents or volunteers on or near the premises of the Adopted Street/Grounds or in performance of the Work Plan attached as Exhibit A to this Agreement.

(g) Supplies, materials, and work area signs furnished by the City will be obtained from and returned to the City during regular business hours. The

Adopter may furnish its own additional supplies for its exclusive use, at no cost to the City.

(h) The Adopter will be responsible for appointing or selecting a spokesperson to act as the representative of the Adopter in matters relating to the Agreement. The Adopter may change the spokesperson at any time by providing written notice of the change and contact information for the new spokesperson to City Administrator.

(i) The Adopter will be responsible for placing litter and noxious weeds in trash bags furnished by the City and for conducting other work activities as described in the Work Plan.

(j) Participants shall not perform any work in the traveled portion of any street.

(k) The participants shall not remove any material that might be hazardous, including: hypodermic needles, hazardous chemicals, batteries or items too heavy to be moved by hand. The location of these hazardous or heavy materials shall be reported to _____.

(2) City Responsibilities:

(a) The City will remove and dispose of all waste collected and bagged by the Adopter.

(b) The City will furnish trash bags, and may furnish other tools and/or materials as deemed appropriate by the City and as provided in the Work Plan.

(c) The City will provide Adopter with a participant timesheet. A copy of the timesheet must be provided to the City Administrator at the end of each month.

(d) The City will provide an orientation to the Adopter. The Adopter must schedule the orientation in advance with the City Administrator.

(e) The City may design, furnish and erect a sign on the adopted street/grounds premises with the Adopter's name or acronym displayed. The sign will remain the property of the City and will be removed by the City upon expiration or termination of this agreement. The acknowledgement sign is not intended as advertising or as a memorial; items such as an internet address, website, or telephone number will not be allowed. The Adopter's name may be verified with the Secretary of State's business name registry or other information available to the City.

(f) The City of Gold Beach Code Enforcement Division shall not discriminate against or deny to any applicant permission to participate in the program because of race, color, handicap, creed, sex, national origin, religion, familial status or marital status.

(g) The Department will arrange for removal of large, heavy, or hazardous material and hypodermic needles from the adopted street section.

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **10. c.**
Council Meeting Date: April 14, 2014

TITLE: Beginning discussion on possible UGB annexation

**SUMMARY AND BACKGROUND:
APRIL REPORT**

We began the discussion last month about possible annexation of the northern portion of our UGB in Wedderburn. You directed me to get some additional information about the Gold Beach Wedderburn Rural Fire Protection District which I have not received as of the date of this report. I hope to have that Monday. I do have additional annexation procedures information from our legal counsel for your review.

DOCUMENTS ATTACHED:

- Annexation Procedures memo from legal counsel

REQUESTED MOTION/ACTION:

Nothing at this time just further discussion

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council
Police Chief Andrews
Fire Chief Floyd
PW Superintendent Newdall

Memo

To: Jodi Fritts, City Administrator
From: Emily N. Jerome, Local Government Law Group 
Date: March 20, 2014
Re: Annexation Procedures

You have asked for a summary of the procedural options for city annexations. This memo summarizes the options allowed under state law. We have determined that the City has no charter provisions regarding annexation. It is important that you determine whether the City has adopted other local regulations that limit its ability to use the options set out below. Please review the City's ordinances to determine whether any such ordinances exist.

Before discussing the procedures for annexing land, it is important to make certain the land proposed for annexation is located in an area that may be annexed by the City. The City can only annex land that is both within its urban growth boundary (UGB) and contiguous to the current city limits. Land is considered to be contiguous to the city limits if it abuts the city limits, or if it is separated from the city limits only by a right-of-way or a body of water. Based on the material provided with the Council Agenda Report dated March 10, 2014, the area proposed for annexation appears to be both within the City's UGB and contiguous to the city limits. Please keep the contiguity requirement in mind if the Council wishes to move ahead with annexation of only some of the subject land.

It is also important to consider whether the annexation would be "reasonable" based on case law established by Oregon Courts. Based on the material provided with the Council Agenda Report dated March 10, 2014, we believe the proposed annexation would pass the "reasonableness" test.

State statutes set out several methods for annexing land. Some of these methods are inapplicable to your circumstances.¹ This memo discusses only those procedures that might apply.

¹ An "island annexation" may be used for land that is completely surrounded by the city. There does not appear to be such land in Gold Beach's UGB. Also, there appears to be no justification for a "health hazard annexation." We have not described the alternative "annexation plan" option set out at ORS 195.205, as it is more cumbersome than the options described in this memorandum.

I. Annexation Based on Written Consent / Council Ordinance

A. 100% Consent Annexation (ORS 222.125)

1. The City has written consent from:
 - a. 100% of the land owners in the territory to be annexed;

AND

 - b. 50% of the electors residing in the territory to be annexed.
2. No public hearing is required.²
3. No election is required.

B. Double Majority Consent Annexation (ORS 222.170(2))

1. The City has written consent from:
 - a. More than 50% of the voters in the territory to be annexed;

AND

 - b. The owners of more than 50% of the land in the territory to be annexed.
2. A public hearing is required.
3. No election is required.

C. Triple Majority Consent Annexation (ORS 222.170(1))

1. The City has written consent from:

More than 50% of the land owners in the territory to be annexed, who also own more than 50% of the land in that territory representing more than 50% of the assessed value in the territory.
2. A public hearing is required.
3. No election is required.

² While we are not familiar with the subject property's current comprehensive plan designation or zoning, it is likely the City would need to make changes to the designation and/or zone of the annexed property. There are good reasons for changing zoning and plan designations at the same time as the annexation ordinance is adopted. See ORS 215.130(2). Even if the annexation law does not require a public hearing for a "100% Consent Annexation" process, the City must still hold a hearing to impose a new land use designation or zone on the annexed property. For this reason, the City may choose to accept testimony about both issues at the hearing.

II. Annexation Based on Election

A. City / Territory Vote Annexation (ORS 222.111(5))

1. No prior consents are required.
2. No public hearing is required.
3. An election is required to obtain more than 50% support from the voters in the City and more than 50% support from the voters in the territory to be annexed.

B. Territory Vote Annexation (ORS 222.120)

1. No prior consents are required.
2. A public hearing is required.
3. An election is required to obtain more than 50% support from the voters in the territory to be annexed.

Ordinances annexing land (as opposed to annexations approved by the voters) may be subject to referendum or appeal by those opposing the annexation. Because annexation decisions are "land use decisions," an annexation ordinance must include findings demonstrating consistency with the applicable criteria. Appeals are filed with the Land Use Board of Appeals in Salem, instead of the county circuit court.

Other issues that cities typically consider when contemplating a multi-property annexation include the taxation of the annexed area, the provision of public facilities and services to the area and the impacts on special service districts. Please let us know if you would like us to address any of these issues, or others.

MARCH REPORT

Because of the law enforcement uncertainty at the County we began having discussions in 2012 about possible annexation of all or parts of our UGB. The actual discussion was hampered by the County's dissolution of the GIS department. I was finally able to obtain raw data in December. After truthing the data I have Phase I data for the Council to consider. I was directed to focus my efforts for Phase I on the Wedderburn/Rogue Hills/Rogue Shores area.

Attached you will find an overall analysis I conducted of the subject area and the relevant Assessor data in a spreadsheet. This can be the beginning point for our discussions.

Regarding the annexation process itself we would obviously have a public hearing(s) to get input from the citizens that would be affected. There are several methods to the process which can involve an or no election. The relevant state statutes are contained in ORS Chapter 222. The Reader's Digest version is the City could annex the territory without an election if at least 50% of the owners of the area consent in writing. Properties that are exempt from taxes can't be included in the consent. Annexations with elections are subject to referendum. That is the VERY simple version. If the Council decides to seriously consider annexation we would confer with legal counsel.

EXCERPTS FROM CHAPTER 222 *(emphasis added)*

222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. (1) *Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.*

(2) *When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.*

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) *Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or*

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger

to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(6) *The ordinance referred to in subsection (4) of this section is subject to referendum.*

(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. *The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.* [1985 c.702 §3; 1987 c.738 §1]

222.170 Effect of consent to annexation by territory; proclamation with and without city election. (1) *The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:*

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed

to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) *Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section.* [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 10 d.
Council Meeting Date: April 14, 2014

TITLE: Medical Marijuana Update

**SUMMARY AND BACKGROUND:
APRIL REPORT**

I am attaching a survey I received from League of Oregon Cities regarding the MM Dispensary moratorium issue. This is an info only item.

FINANCIAL IMPACT:

- None at this time

DOCUMENTS ATTACHED:

- Info from LOC

REQUESTED MOTION/ACTION:

None at this time- info only.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council
Chief Andrews

City	Moratorium	Notes
Albany	Pending	Will be voting on a moratorium at their April 9 meeting. The outcome is uncertain.
Ashland	Pending	Approved 1st reading of limited moratorium on April 1. Officially enacted upon 2nd reading April 15
Astoria	Pending	Drafting an ordinance.
Aumsville	Pending	Will consider moratorium at their April meeting.
Baker City	Pending	Final reading for a moratorium on April 8th.
Banks	Pending	Will consider April 8, 2014.
Brookings	No	
Cannon Beach	Pending	Expected to pass April 23
Canyonville	Pending	Considering at the April 17, 2014 meeting.
Carlton	Pending	Council approval expected on April 14
Cascade Locks	Pending	On agenda for implementation before May 1st.
Cave Junction	No	Business license code includes "must comply with state & federal law"; on agenda for April 14
Central Point	No	Updated business license code to address dispensaries; Considering moratorium ordinance April 9 as emergency clause
Coburg	Pending	Vote scheduled for April 8
Coquille	Pending	Council will consider it (and likely pass it) at their meeting on April 7th.
Corvallis	Pending	3rd presentation from police chief on April 7; council may decide then to weigh in
Cottage Grove	Pending	City Council will meet on April 14th to consider a moratorium.
Creswell	Pending	Creswell will make a decision on a moratorium on April 7th.
Depoe Bay	No	Had a meeting March 26th.
Donald	Pending	Consideration for their April 8th meeting.
Drain	Pending	Voting on it at the April 14th meeting.
Echo	Pending	On agenda for April meeting.
Enterprise	Pending	Has taken no action, but will adopt a Moratorium Ordinance at the April 14th City Council Meeting.
Estacada	Pending	Considering this at the April 14th meeting.

Falls City	No	Falls City has not implemented a moratorium, but its current code prevents businesses that do not comply with both state and federal law from locating in the city. The Council is considering making an exemption for dispensaries in compliance with state law after consideration has been given to regulation needs.
Forest Grove	Pending	Will be addressing a moratorium during the month of April.
Gold Beach	No	Business license code includes "must comply with state & federal law"
Gold Hill	Pending	The City of Gold Hill will have on their April 7th council agenda an ordinance for a one-year moratorium. An ordinance takes two meetings to adopt so it is expected to be adopted on April 21st. HOWEVER council direction was also made to have an ordinance allowing the siting of mjd's (marijuana dispensary(s)) written by the city planner. The council conversation has been to approve the moratorium and then remove it, probably in June after the second ordinance is adopted allowing the siting of the mjd's. The moratorium is to allow time for the ordinance allowing mjd's to be crafted, vented, approved and adopted.
Halsey	Pending	Considering this at the April 8th meeting.
Heppner	Pending	Public hearing 4/8; Decision 4/14
Independence	No	
John Day	Pending	Drafted an ordinance declaring a moratorium, it is their intention to have it adopted by the May 1st deadline.
Klamath Falls	No	On a 3-2 vote, council implemented regulations over a moratorium.
La Grande	Pending	La Grande has not, but it is an agenda item for April's City Council meeting.
Lakeview	Pending	Lakeview has not but is considering the issue April 8th.
Madras	Pending	Expected to consider April 8
Manzanita	Pending	Will consider a moratorium at its April 9th meeting.

Mill City	No	Modification to the business license code to include the statement that no business license will be issued to a business that violates local, state or federal law. Will also be discussing moratorium next council meeting.
Millersburg	No	Amended the Land Use Dev. Code to add the words "and no use shall be permitted that is in violation of State or Federal Law."
Milton-Freewater	No	
Moro	No	Council given the information at 3/31 council meeting, with the possibility of a special meeting for approval before the month's end deadline.
Mt. Angel	Pending	On the agenda for April 7th.
Nehalem	Pending	Voting on April 14th council meeting.
Newberg	Pending	Consideration for a moratorium on 4/7 agenda
North Plains	Pending	First reading on moratorium through May 2015 is April 7.
Philomath	Pending	On the agenda for April 14th, outcome is uncertain.
Scio	Pending	Reviewing this in ordinance form at April 14th council meeting
Sheridan	Pending	Introduced an ordinance to implement the moratorium. The final reading, and expected approval, of the ordinance is Monday, April 7th.
Silverton	No	On agenda for April 7 meeting.
Springfield	No	Public hearing on April 7
Sweet Home	Pending	On agenda for April 8 meeting.
Tangent	No	
Wilsonville	Pending	Moratorium will be presented to the council on April 7th and could be adopted by April 21st. Already have changed business-licensing rules to prohibit the city from issuing a license to any business that is illegal under city, state, or federal laws.
Winston	Pending	Will consider April 7, 2014.

March Report: The state law permitting Medical Marijuana Dispensaries (under state regulation) went into effect on March 3rd. The legislature has been busy in the past month making revisions to the original law. Changes were being made up to today (Friday). Legal Counsel has been keeping me apprised of the various changes. I received this from her this afternoon:

This morning the Senate concurred in the House amendments to SB 1531 so now it goes to the Governor for signature. I have not heard anything that leads me to believe the Governor's signature would be an issue, so I think we can consider the bill a done deal. The bill as adopted will do the following: give cities and counties the authority to impose reasonable time, place, and manner regulations on medical marijuana dispensaries and allow cities and counties to impose temporary moratoria on the operation of dispensaries within their jurisdictions. "Reasonable regulations" include: 1) reasonable limitations on hours of operation; 2) reasonable limitations on where a dispensary may locate within an industrial, commercial, or mixed-use zone; and 3) reasonable conditions on the manner in which the dispensary dispenses medical marijuana. Moratoria must be enacted no later than May 1, 2014, and will expire on May 1, 2015

We said at the February meeting that we wanted to wait and see what the state would be doing. The League is going to be having a "Marijuana Workshop" on May 1st that I will probably attend. I am including info from LOC with this report.

This has been the topic du jour on my City Managers email listserv. I compiled the responses of an informal survey conducted this week which I have attached to this report (I didn't include the city names since it was an internal discussion). The answers are from A-Z so there is no majority answer.

February Report: Effective Monday, March 3rd, the state will begin accepting applications for Medical Marijuana Facility registration. We received the temporary Oregon Administrative Rules from legal counsel this week. I have reviewed the rules and the registration process is actually quite difficult—and expensive. The rules are attached.

Obviously this has been a hot topic for cities—how or whether to further regulate dispensaries. I have included some info and ordinances from other cities. I spoke with legal counsel about the potential risks of the dispensaries. We can discuss those during the meeting. The decision on how to proceed is a legislative one and therefore a council decision. I will administer/enforce whatever the council decides to adopt.

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 10. e.
Council Meeting Date: April 14, 2014

TITLE: Proposed Budget Calendar

SUMMARY AND BACKGROUND:

I have attached the proposed Budget Calendar for your review. I did not discuss with you last month about additional dates, if needed. I'd like to figure out at least one additional date in case we need it, preferable two.

FINANCIAL IMPACT:

- None at this time

DOCUMENTS ATTACHED:

- Proposed Budget Calendar

REQUESTED MOTION/ACTION:

Decision on at least one addition budget hearing date

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

2014-2015 Budget Calendar

DATE	EVENT
April 11, 2014	First legal notice of Budget Committee Hearing on April 22 nd posted on www.goldbeachoregon.gov
April 16, 2014	Second legal notice publication in Pilot and Reporter of April 22 nd Budget Committee hearing
April 15, 2014	Copy of proposed budget filed at City Hall, published on website, and distributed to Budget Committee members
April 22, 2014	First Hearing of the Budget Committee <ul style="list-style-type: none"> • Presiding officer elected • Budget officer presents budget message and proposed budget • Public hearing on proposed budget and hearing on State Revenue Sharing funds
April XX and May XX, 2014	Additional budget committee hearings, if needed
May X, 2014	Final meeting of Budget Committee to review approved changes to budget officer proposed budget and pass a motion recommending a budget for fiscal year 2013-2014 to the City Council, and approving an amount or rate of total property taxes to be certified for collection by Assessor
May 28, 2014	First published notice in CC Reporter of the Notice of Budget Hearing (City Council) and Financial Summary
June 4, 2014	Second published notice in CC Reporter of the Notice of Budget Hearing (City Council) and Financial Summary
June 9, 2014	City Council Hearing <ul style="list-style-type: none"> • Public hearing on the recommended budget and proposed use of State Revenue Sharing funds • Council adopts resolution declaring the City's election to receive State Revenue Sharing funds • Council adopts resolution making appropriations and levying property taxes
June 23, 2014	Certify property tax levy to County Tax Assessor

The City of Gold Beach is dedicated to enhancing quality of life, while promoting the health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community.