



## COUNCIL REGULAR SESSION

Zoom Video Conference

## AGENDA

January 5, 2022

06:00 PM Pacific Time

**Video Meeting:** Council will hold this meeting through video conference. The public may watch live on the [city's YouTube channel](#), or by joining the Zoom webinar:

<https://us02web.zoom.us/j/86276521025>

Call in number:

+1 253 215 8782

**Please note that a passcode is not required to enter the webinar.**

**Note:** agenda item times are estimates and are subject to change.

**1. CALL TO ORDER (6:00 p.m.)**

**2. AUDIENCE PARTICIPATION (6:01 p.m.)**

Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to [cityhall@ci.manzanita.or.us](mailto:cityhall@ci.manzanita.or.us)), or in person to city staff.**

**3. CONSENT AGENDA (6:15)**

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

A. Approval of Minutes

- a. December 8, 2021 Workshop
- b. December 8, 2021 Regular Session
- c. December 13, 2021 Special Session

B. Approval of Bills

**4. PUBLIC HEARING (6:20 p.m.)**

- A. Public Improvement Contracting Exemption for Manzanita City Hall  
Leila Aman, City Manager

**5. NEW BUSINESS (6:40)**

- A. Foredune Management Presentation  
Meg Reed, Coastal Shores Specialist, Department of Land Conservation and Development

Dr. Jonathan Allan, Coastal Geomorphologist, Geological Survey & Services Program, Oregon Department of Geology and Mineral Industries

- B.** Heart of Cartm "Trashion" – Special Event Permit continued from December.
- C.** Determination of Nuisance - 470 North Street  
Erik Harth, Chief of Police
- D.** Police Department Update – Year in Review  
Erik Harth, Chief of Police
- E.** Reopening of City Hall  
Mayor Scott
- F.** 2022 City Council Goals – Resolution 22-01  
Leila Aman, City Manager

**OLD BUSINESS** (8:10 p.m.)

- 6.**
  - A.** City Hall Construction Project Update  
Leila Aman, City Manager
- 7. CITY MANAGER REPORT** (8:15)
- 8. INFORMATION AND ADJOURN** (8:06)

CITY OF  
MANZANITA



COUNCIL PACKET

**CITY OF MANZANITA**  
**December 8, 2021**  
**CITY COUNCIL SPECIAL WORKSHOP**

**CALL MEETING TO ORDER:** The meeting was called to order by Mayor Scott at 3:00 P.M. December 8, 2021 via Zoom.

**ROLL:** Members present were: Mike Scott, Linda Kozlowski, Steve Nuttall, Jerry Spegman, and Hans Tonjes. Staff Present: Leila Aman, Dan Weitzel, Nina Aiello, and Judy Wilson.

**1. ANNEXATION POLICY:** City Manager Leila Aman stated a property owner outside City limits is preparing to develop and is interested in connecting to City services. Aman reviewed the City's current annexation provisions and stated that the City's processes do not currently address the procedures or criteria that apply to annexation. Aman discussed various approaches the City can take to address this issue. Council provided Aman with direction to address current annexations on a case by case basis and to use ORS Ch. 222 until a process is created. To work with the planning commission to develop a process and to engage with the community on annexation through the comprehensive plan process.

**2. NEHALEM BAY HEALTH DISTRICT UPDATE – MARC JOHNSON:** Nehalem Bay Health District Board President Marc Johnson provided an overview of the District, which includes Nehalem Valley Care Center, The Rinehart Clinic, and Old Wheeler Hospital (currently housing the North County Foodbank). Johnson discussed NBHD strategic objectives, which include addressing and improving primary health care, rehousing the North County Foodbank, and addressing the work force housing crisis in North County. Johnson stated that NBHD acquired an additional property within the City of Wheeler to build new facilities, and build workforce housing. NBHD will hold a public meeting December 17, 2021 at 7:00 pm to discuss this issue and encourages members of the community to attend.

**Mayor Scott adjourned the meeting at 4:39 pm**

**MINUTES APPROVED THIS**  
**5<sup>th</sup> Day of January, 2022**

Attest:

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Michael Scott, Mayor

\_\_\_\_\_  
Leila Aman, City Manager

**CITY OF MANZANITA**  
**December 8, 2021**  
**CITY COUNCIL MEETING**

**CALL MEETING TO ORDER:** The meeting was called to order December 8, 2021 at 6:00 P.M. via Zoom by Mayor Mike Scott.

**ROLL:** Members present were: Mayor Mike Scott, Linda Kozlowski, Steve Nuttall, Jerry Spegman, and Hans Tonjes. Staff present: City Manager Leila Aman, and Finance & Administrative Specialist Nina Aiello.

**AUDIENCE INTRODUCTION:** There were 21 people in attendance

**PUBLIC COMMENTS AND COMMUNICATIONS:** There was one comment from the public reminding everyone to register to vote, and one comment regarding possible uses for surplus City property.

**CONSENT AGENDA:**

- A. APPROVAL OF MINUTES – November 3, 2021 City Council Special Workshop, November 3, 2021 City Council Meeting, and November 13, 2021 Council Retreat
- B. APPROVAL OF BILLS FOR PAYMENT

**A motion was made by Tonjes, seconded by Kozlowski, to approve the consent that includes approval of the November 3, 2021 City Council Special Workshop, November 3, 2021 City Council Meeting, November 13, 2021 City Council Retreat; approve payment of bills and all subsequent bills subject to approval by the Mayor or Council President and City Manager; Motion passed unanimously.**

**NEW BUSINESS:**

**A. Nehalem Bay Health District Update – NBHD Board Chair Marc Johnson -** Board Chair Johnson provided an overview of NBHD operations and their strategic objectives, which include addressing and improving primary health care, rehousing the North County Foodbank, and addressing the work force housing crisis in North County. Johnson stated that NBHD acquired an additional property within the City of Wheeler to build new facilities, and potentially build workforce housing. NBHD will hold a public meeting December 17, 2021 at 7:00 pm to discuss this issue and encourages members of the community to attend.

**B. Coalition for Recreational Trails Award for Neah-Kah-Nie Mountain to Manzanita Trail– Mayor Mike Scott and Connie Soper –** NKN Trail Committee member Connie Soper stated that the City accepted an award for outstanding use of recreational trails program funds on November 10, 2021. Soper provided background on the trail, stating that it took nearly six years to complete and spans two miles, filling the gap between the Oregon

Coast Trail and the City of Manzanita. Soper shared a video of Mayor Scott receiving the award on behalf of the City.

**C. Heart of Cartm “Trashion” Special Event Permit– Heart Cartm Executive**

**Director Jessi Just** – Executive Director Just presented Heart of Cartm’s Special Event Permit application for their annual “Trashion show” event. The fundraising event would be held at Underhill Plaza and have an estimated 300 people in attendance. The applicant is requesting to serve alcohol, and the City does not have a policy in place for approval of events serving alcohol. Council formed a consensus directing City Manager Aman to research liability issues as well as tent requirements from the Fire Department. Council will discuss at the January 5, 2021 City Council meeting.

**D. NBFA Christmas Tree Fundraiser Special Event Permit** – Special Event Permit on behalf of NBFA has been removed from the agenda.

**OLD BUSINESS:**

**A. City Hall Construction Project Update – City Manager Leila Aman** – City Manager Aman provided an update on the new City Hall construction project and presented a milestone schedule. Aman has been working newly hired Owners Representative Klash, Inc to draft the Architecture and Engineering Request for Proposal, scheduled to be released December 15, 2021. A Contractor Request for Proposal will be released in January 2022. Aman has retained a broker for the sale of the old City hall building located at 543 Laneda and is preparing the building to be listed in January, 2022.

**CITY MANAGER’S REPORT –**

**A. City Manager Leila Aman** – Aman stated that there will be an overview of the November 13, 2021 City Council Retreat at a future meeting in January. There will be a City Council Special Meeting December 13, 2021 to discuss Council goals, and information from these meetings will help inform the City work plan. Aman stated that the annual Business License renewals have been sent out to business owners, and this is the first year the City has adopted a fully online process, greatly increasing staff efficiency.

**Miscellaneous:**

1. The City of Manzanita will hold Municipal Court on December 17, 2021 at 1:30 pm. Due to COVID-19 restrictions court continues to remain closed to the public.
2. There will be no Planning Commission Meeting for the month of December.
3. City Hall will be closed December 24, 2021 in observance of Christmas, and December 31, 2021 in observance of New Years.

**Mayor Scott adjourned the meeting at 7:14 p.m.**

**MINUTES APPROVED THIS  
5<sup>th</sup> Day of January, 2022**

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Michael Scott, Mayor

Attest:

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Leila Aman, City Manager

**CITY OF MANZANITA**  
**December 13, 2021**  
**SPECIAL CITY COUNCIL MEETING**

**CALL MEETING TO ORDER:** The meeting was called to order December 13 2021 at 1:00 pm via Zoom by Mayor Mike Scott.

**ROLL:** Members present were: Mayor Mike Scott, Steve Nuttall, Jerry Spegman, Hans Tonjes, and Linda Kozlowski. Staff present: City Manager Leila Aman, and Finance & Administrative Specialist Nina Aiello

**AUDIENCE INTRODUCTION:** There were 21 people in attendance

**NEW BUSINESS:**

**A. City Council Goals Discussion – City Manager Leila Aman** – Aman provided an overview and update of the current City council goals, adopted April 8, 2020. Goal 1, to implement a plan to relocate City Hall to the Underhill Plaza Property, is now part of City operations and will be carried over into ‘Level up Manzanita!’. Goal 2, to finalize and approve an emergency preparedness plan, is complete. Public Works will have an additional staff person in addition to the Public Works Director to oversee and implement emergency preparedness in coordination with the City Manager. Goal 3, to complete a 5-year capital improvement/infrastructure plan, will be carried over into ‘Budget forward Manzanita’, and is scheduled to be implemented in FY 23-24. Goal 4, to create a shared vision for the Manzanita community including those in the Urban Growth Boundary, will be carried over into ‘Envision Manzanita’.

Aman provided an overview of the proposed City council goals for 2022:

**Goal 1: Level up Manzanita!:** Aman stated that goal 1 is focused on operational improvements allowing staff to be more efficient, including the reorganization of staff, investment in employees, and focus on retention/recruitment. In addition, Aman recommends establishing and implementing a communications plan, going digital with all applications, archiving all records into an online retention system with a searchable database, the development/enhancement of a Geographic Information System for the City, and creating a Municipal Code.

**Goal 2: Budget forward Manzanita:** Aman stated that goal 2 is focused on developing a long-term revenue strategy for the City through a budget sub-committee in collaboration with outside professional services. A strategic long-term revenue plan will be implemented based on the strategy developed. Aman anticipates that throughout this process the City will be on the path to diversification and have a Capital Improvement plan in place and ready for implementation in FY 23-24.

**Goal 3: Envision Manzanita!:** Aman stated that goal 3 is focused on continuing the work from the 2020 City Council goal 4, creating a shared vision for the Manzanita community. Aman

provided a proposed 5-year timeline for this objective, proposing years 1-2 develop a land use vision through a collaborative community engagement process which will be tied into the framework plan for Underhill Plaza. Years 2-3 will update the Comprehensive Plan through a collaborative community engagement process, and years 3-5 will update the Zoning Code.

**PUBLIC COMMENT AND COMMUNICATION:** None

**Mayor Scott adjourned the meeting at 2:07 p.m.**

**MINUTES APPROVED THIS  
5<sup>th</sup> Day of January, 2021**

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Michael Scott, Mayor

Attest:

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Leila Aman, City Manager

## BILLS FOR APPROVAL OF PAYMENT

From 12/1/2021 - 12/31/2021

VENDOR	TOTAL	ADMIN	POLICE	BLDG	COURT	PARKS	ROADS	Visitors Cnt	WATER
ASTORIAN (RENEWAL)	\$59.00	\$59.00							
CHARTER (INTERNET SERVICE)	\$569.91	\$214.98	\$124.98					\$104.97	\$124.98
DMV (DRIVING RECORDS)	\$1.05				\$1.05				
EVCNB (EMERGENCY PREPAREDNESS)	\$300.00								\$300.00
EVERGREEN AUTO (VEHICLE MAINTENANCE)	\$64.50			\$64.50					
FASTENAL (HARDWARE)	\$3,204.09								\$3,204.09
FERGUSON (PLUMBING SUPPLIES)	\$2,715.51								\$2,715.51
HDR ENGINEERING (ENGINEERING SERVICES)	\$5,026.50								\$5,026.50
HEADLIGHT HERALD (RENEWAL)	\$40.00	\$40.00							
LARRY BLAKE (JUDICIAL SERVICES)	\$400.00				\$400.00				
LEHR (POLICE MAINT & ACCESSORIES)	\$9,971.83		\$9,971.83						
MILLER NASH GRAHM & DUNN (CITY ATTORNEY)	\$7,990.00	\$7,990.00							
MUNI REVS (STR CENSUS MONITORING)	\$1,165.00	\$1,165.00							
NEHALEM BAY WASTE WATER (WASTEWATER SERVICE)	\$243.00					\$243.00			
NORTH COAST CIVIL DESIGN (ENGINEERING SERVICES)	\$15,384.50						\$7,415.32		\$7,969.18
ONE ELEVEN (IT SERVICES)	\$3,080.00	\$2,410.00		\$90.00				\$300.00	\$280.00

## BILLS FOR APPROVAL OF PAYMENT

From 12/1/2021 - 12/31/2021

VENDOR	TOTAL	ADMIN	POLICE	BLDG	COURT	PARKS	ROADS	Visitors Cnt	WATER
OREGON BUILDING OFFICIALS (ANNUAL MEMBERSHIP)	\$225.00			\$225.00					
OREGON COAST CREATIVE (EXPLORE MANZ WEBSITE)	\$600.00							\$600.00	
OREGON MAYORS ASSOC. (ANNUAL MEMBERSHIP)	\$71.00	\$71.00							
PAC OFFICE AUTOMATION (COPY/POSTAGE SERVICE)	\$214.37	\$120.08	\$25.79	\$13.70	\$27.40				\$27.40
RHYNO NETWORKS (IT SERVICES)	\$374.60	\$216.00	\$66.00						\$92.60
RTI (PHONE SERVICE)	\$472.84	\$62.14	\$101.78	\$19.12	\$14.34				\$275.46
SAIF (WORKERS COMP INSURANCE)	\$1,242.10	\$13.31	\$430.98		\$1.72	\$35.77	\$152.71		\$607.61
SCOVELS SERVICE CENTER (VEHICLE MAINTENANCE)	\$200.00		\$200.00						
SHELDON OIL CO. (FUEL)	\$2,487.08		\$897.65	\$43.71		\$77.29	\$386.43		\$1,082.00
STAPLES (OFFICE SUPPLIES)	\$663.92	\$258.36		\$405.56					
THE DATA CENTER (WATER BILLING)	\$879.92								\$879.92
TILLAMOOK CO EMERGENCY (SHIELD FORCE SOFTWARE)	\$2,184.96		\$2,184.96						
TILLAMOOK PUD (ELECTRIC SERVICE)	\$3,715.06	\$188.62	\$241.57	\$15.00	\$10.73	\$80.44	\$609.00	\$73.12	\$2,496.58
US BANK (CITY VISA)	\$6,396.86	\$383.82							\$6,013.04
VERIZON (CELL & DESK PHONE SERVICE)	\$1,431.49	\$422.69	\$327.05	\$119.98				\$64.00	\$497.77
<b>TOTALS</b>	<b>\$71,374.09</b>	<b>\$13,615.00</b>	<b>\$14,572.59</b>	<b>\$996.57</b>	<b>\$455.24</b>	<b>\$436.50</b>	<b>\$8,563.46</b>	<b>\$1,142.09</b>	<b>\$31,592.64</b>



## COUNCIL STAFF REPORT

To: Mayor and City Council

Date Written: December 21,  
2021

From: Leila Aman, City Manager

Subject: **Exemption from Competitive Bidding for the Manzanita City Hall Project to use a Construction Manager / General Contractor alternative contracting process.**

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### ACTION REQUESTED

Approve Findings in Support of an Exemption from Competitive Bidding under ORS 279.335(2) for the Manzanita City Hall Project.

### HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

None

### ANALYSIS

Staff recommend that the city use the Construction Manager / General Contractor (CM/GC) alternative contracting process to select a contractor for the Manzanita City Hall project. The CM/GC alternative contracting process is authorized for procurement of construction services under ORS 279C.337 as long as the Local Contract Review Board approves an exemption from competitive bidding as provided in ORS 279C.335(2). The Manzanita City Council acts as the City's Local Contract Review Board under ORS 279A.060.

The CM/GC method is a commonly used by public entities for larger more complex construction project such as the City Hall project. The CM/GC allows the city to select a contractor through a complete RFP process based on qualifications and experience. This allows the city to select a contractor to work with the city and the architect throughout the design process which results in improved constructability, and value engineering which often results in fewer change orders, and it also enables the contractor to be involved in the development of the construction program which can also have cost efficiencies.

At the end of the design phase, the construction contract is set through a negotiated guaranteed maximum price (GMP) which is ultimately reviewed and approved by city council. To use this contracting method, the city council must move to adopt the findings in attachment A for the city to proceed with this contracting method. The attached findings in support of an exemption from competitive bidding under ORS 279c.335(2) were prepared by the City Attorney and reviewed by the City Manager. Notice of the public hearing was posted 14 days in advance on December 22, 2021 online with the findings and a copy of this staff report. Physical postings were placed at City Hall, the restrooms on 4<sup>th</sup> avenue and at the Post Office.

If approved staff will proceed with a competitive RFP for a CM/GC in January and expect to have a selected contractor for Council consideration in March.

### BUDGET IMPACT

None

**WORKLOAD IMPACT**

The exemption will enable to City Manager to proceed within hiring a CM/GC.

**COORDINATION, CONCURRENCE, OR DISSENT**

The City Attorney concurs with this approach.

**STAFF RECOMMENDATION**

City Council adopt findings in support of an exemption from the competitive bidding process under ORS 279c.335(2) for the Manzanita City Hall project.

**ALTERNATIVES**

Council can reject these findings and use a competitive bidding process at the end of the design process.

**ATTACHMENTS**

1. Notice
2. Findings in Support of an Exemption from Competitive Bidding Under ORS 279c.335(2) Manzanita City Hall Project.

**Notice of Public Hearing**  
**City of Manzanita**  
**Public Improvement Contracting Exemption**  
**6:00 pm, January 5, 2022**

The City of Manzanita City Council, acting as the City's Local Contract Review Board, will conduct a public hearing on Wednesday, January 5, 2022 beginning at 6:00 pm to hear and take testimony on draft findings for an exemption from competitive bidding pursuant to ORS 279C.335(2). If approved, the exemption would allow the City to solicit and award a contract pursuant to the Construction Manager/General Contractor (CM/GC) alternative contracting method for the construction of a new City Hall. The hearing will begin at 6:00 pm, to be held virtually via the Zoom platform. The draft findings will be posted on the City's website as part of the City Council packet and can be made available by submitting a request via email to Leila Aman, City Manager, at [lanan@ci.manzanita.or.us](mailto:lanan@ci.manzanita.or.us). All interested parties are encouraged to attend and testify.

**FINDINGS IN SUPPORT OF AN EXEMPTION FROM COMPETITIVE BIDDING  
UNDER ORS 279C.335(2)  
MANZANITA CITY HALL PROJECT**

**I. Introduction.** The City of Manzanita (the “City”) is planning to construct a new City Hall on approximately 2.67 acre parcel of land located at Underhill Plaza on the corner of Manzanita Street and Division in the City of Manzanita (the “City Hall Project”). Due to the nature and complexity of this project and the City and community goals and values, staff recommends using the Construction Manager/General Contractor (CM/GC) alternative contracting process. The CM/GC alternative contracting process is authorized for procurement of construction services under ORS 279C.337 as long as the Local Contract Review Board approves an exemption from competitive bidding as provided in ORS 279C.335(2). The Manzanita City Council acts as the City’s Local Contract Review Board under ORS 279A.060.

**II. The CM/GC Alternative Contracting Process.** Under the CM/GC process, the City solicits prospective contractors prior to completion of the design phase pursuant to a competitive request for proposals (RFP) process. Selection is based upon criteria relating to the experience and expertise of the contractor rather than low bid. The contractor works with the owner and architect during the design phase to develop the final design with the goals of improved constructability and value engineering, which often results in fewer change orders during construction and enables the City to expedite the construction schedule. It also enables the contractor to be involved in development of the construction program. At the end of the design phase, the owner and contractor negotiate and agree on a guaranteed maximum price ("GMP") and the construction schedule, which is typically documented through a GMP Amendment. Execution of the GMP Amendment starts the construction phase of the project. The CM/GC alternative contracting method is commonly used by public contracting agencies for large, complex projects such as the City Hall Project.

**III. Findings.** ORS 279C.335(2), implementing ORS 279C.330, requires the Board to make certain findings in order to grant an exemption as follows.

**A. 279C.335(2)(a):** "The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts."

Finding: The requested exemption will not encourage favoritism or substantially diminish competition. The City is utilizing a competitive RFP process to select the CM/GC firm. The procurement will be formally advertised with public notice. Full competition will be encouraged and all qualified contractors will be invited to submit a proposal. The award will be based upon an objective review and scoring of proposals by a qualified review committee based on identified selection criteria. Once selected, the CM/GC will select subcontractors via competitive process consistent with the requirements described in ORS 279C.337(3).

**B. 279C.335(2)(b):** Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency . . . that seeks the exemption . . . . In approving a finding under this paragraph, the . . . local contract review board shall consider the type, cost and amount of the contract and, to the

extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

1. ORS 279C.335(2)(b)(A). "How many persons are available to bid;"

Finding: The City expects that a substantial number of contractors will be interested in the City Hall project, and that there will vigorous competition during the RFP process. The CM/GC project delivery method has increased in popularity and there are several contractors in the region with experience constructing similar improvements using the CM/GC approach.

2. ORS 279C.335(2)(b)(B). The construction budget and the projected operating costs for the completed public improvement;"

Finding: The City has not conducted a detailed analysis of the operating costs, but expects that the improved design resulting from the CM/GC's early participation during the design phase, and particularly the contractor's assistance with sustainability and seismic improvements designed to meet the City's rigorous goals, will substantially reduce long-term operating cost.

3. ORS 279C.335(2)(b)(C). "Public benefits that may result from granting the exemption;"

Finding: Unlike a traditional design/bid/build procurement, an RFP process allows the City to review the qualifications of the proposed general contractor's project team, ensuring the selected firm has experience and expertise in development of municipal facilities that include sustainable and energy efficient features.

Bringing the CM/GC on during the design phase also establishes a team approach early in the project that leads to better communication, continuous value engineering, and improved constructability review, which results in an improved final design and, consequently, streamlines construction of the project. The City expects that the CM/GC process will reduce change orders and limit delays during the construction phase. The City also expects that the CM/GC approach will facilitate better monitoring by staff to ensure that the Project stays within budget.

Overall, the public benefits of the CM/GC process include cost savings, better achievement of City community goals, and more timely delivery of the project due to fewer changes and disruptions.

4. ORS 279C.335(2)(b)(D). "Whether value engineering techniques may decrease the cost of the public improvement:"

Finding: Value engineering is a routine practice in public improvement projects regardless of procurement method. The CM/GC delivery method allows for the general contractor to participate in the value engineering process during the design phase, resulting in a more effective and efficient process as compared to value engineering via change orders to a completed design. The inherent

flexibility and team approach of the CM/GC project delivery method eases the process for making improvements to the design and scope of work as necessary to meet the project budget before finalization of the design. This is not something that the traditional bid process offers.

Value engineering may or may not decrease the contract sum but it should improve the City's ability to (a) manage the project within the budget and (b) reduce extra-cost change orders and the costs associated with project delay. The City also expects to be able to take advantage of reduced architectural and other professional consultant service fees because of this more streamlined CM/GC approach.

5. ORS 279C.335(2)(b)(E). "The cost and availability of specialized expertise that is necessary for the public improvement:"

Finding: The City Hall project is not a large dollar project, but is complex in that it requires a contractor with the expertise and experience to manage multiple subcontractors and to construct a project that will be able to withstand coastal conditions and any seismic events. The RFP process allows for review of contractor expertise and the particular expertise of the contractor's proposed team, which is not afforded by a low-bid procurement.

6. ORS 279C.335(2)(b)(F). "Any likely increases in public safety:"

Finding: The CM/GC process will enhance public safety because the City will be able to consider the safety record of the contractors selected and because the CM/GC will be integral to planning the construction schedule and safety measures during the design phase.

7. ORS 279C.335(2)(b)(G). Whether granting the exemption may reduce risks to the contracting agency . . . or the public that are related to the public improvement;"

Finding: The scope and magnitude of the work requires long-term planning and scheduling around the City's calendar. Directly involving the contractor in development of these key plans during the design phase will result in a more realistic, achievable, and expeditious schedule.

In addition, the CM/GC process allows the contractor to identify and help address technical issues during the design phase, which facilitates advanced problem solving and often yields cost and schedule benefits.

8. ORS 279C.335(2)(b)(H). "Whether granting the exemption will affect the sources of funding for the public improvement:"

Finding: City Hall Project funding will include but not be limited to existing reserve funds and proceeds from the sale of the former City Hall property. Employing the CM/GC process will not affect any of the funding sources known to date.

9. ORS 279C.335(2)(b)(I). "Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement.

Finding: Because the CM/GC process results in the selection of the general contractor early in the design phase, the City is better able to take advantage of market prices by facilitating early purchase of certain materials and equipment. The key value added of the CM/GC process is the real time market job costing from projects around the Oregon market and the West Coast. This knowledge allows the contractor and architect time to consider alternative items that may generate cost savings.

10. ORS 279C.335(2)(b)(J). "Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement."

Finding: Building an entirely new City Hall for a coastal community is complex and will require careful planning and coordination. One of the biggest advantages of the CM/GC method is the ability to coordinate all technical work before the start of construction and to establish a more accurate construction schedule. Being able to apply best practices as a team should result in a better end product with respect to quality and budget.

11. ORS 279C.335(2)(b)(K). "Whether the public improvement involves new construction or renovates or remodels an existing structure."

Finding: This project involves new construction with several complex attributes. Use of the CM/GC process will ensure that the selected contractor has the experience and expertise to successfully construct the project.

12. ORS 279C.335(2)(b)(L). "Whether the public improvement will be occupied or unoccupied during construction;"

Finding: There are no plans to occupy the new City Hall during construction. The current temporary City Hall, however, will be operating throughout construction, and space within that facility is limited. Consequently, the City will aim to expeditiously transition its operations to the new City Hall once substantial completion of construction is achieved.

13. ORS 279C.335(2)(b)(M). "Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions;"

Finding: Construction is anticipated to occur in a single phase.

14. ORS 279C.335(2)(b)(N). "Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement

contract and to help negotiate, administer and enforce the terms of the public improvement contract."

Finding: The City has engaged the Kloth Group ("Kloth") to serve as its owner representative. Kloth contributes years of experience working on projects conducted using the CM/GC delivery method. The design team procurement process is ongoing but the City will consider each proposer's experience with CM/GC contracting along with other criteria. The City's outside legal counsel, Miller Nash LLP, also has extensive experience with the CM/GC alternative contracting method and has represented public contracting agencies on various CM/GC projects.

**Ultimate Finding:** For these reasons, use of the CM/GC Alternative Contracting Method for the City Hall Project is likely to result in substantial cost savings and deliver other significant public benefits as compared to use of the standard design/bid/build process within the meaning of ORS 279C.335(2)(b).



## COUNCIL STAFF REPORT

To: Mayor and City Council  
Reviewed: Leila Aman, City Manager  
From: Chief Erik Harth

Date Written: December 28,  
2021

Subject: **Request for Council Determination of a Nuisance per Ord 79-6 Section 46 -  
470 North Ave**

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### ACTION REQUESTED

Staff are requesting Council to review the information and determine if more information is needed or if there is sufficient information to determine if a nuisance exists at the property located at 470 North Ave in the City of Manzanita.

### HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

In September 2021 the City Manager was contacted by a group of three residents with a complaint regarding rubbish and an abandoned vehicle located in the back yard of a property located at 470 North Avenue. (See photos in Attachment A) The neighbors claimed that the material in the back yard constituted a nuisance and violated Ordinance 79-6, Sections 11 (2) (3), 4, 32 and 41 and ORS 819.100-819 140. The City reviewed these claims, and determined while they may fit the definition of a violation of the City Ordinance, a health a safety hazard doesn't necessarily exist at this time.

City Manager Leila Aman and Officer Mike Sims met the neighbors on the property of 470 North on September 17<sup>th</sup> to hear their concerns and discuss the City's response and next steps which included determining the responsible party and following up to remove the garbage and vehicle.

The situation is further complicated by the fact that the property is not owned by an individual nor a specific entity or organization. The owner of 470 North Ave. is deceased and the property had a reverse mortgage so its ownership is currently in transition. Officer Sims research found that the property is being managed by Guardian Asset Management Company based out of Pennsylvania. Ownership is still in custodial status with HUD, meaning the family still has the option to purchase the property before it is foreclosed on. The timeline for full ownership transfer to HUD is unknown.

Ultimately the City determined that outreach was the appropriate course of action, and that the debris did not rise to the level of abatement for two reasons. First, the ownership is in transition. It will take time, but it is in process and will eventually transfer ownership and the property will be sold and abated. Second, the level of effort required on the part of the city to initiate an

abatement, especially when there is a vehicle involved is significant, and the city is responsible for paying the costs in advance. It is possible that a tow company will refuse to tow the vehicle from the property without having the title. The cost / benefit of the action given that the likelihood it will be addressed through the sale of the property informed the city's response.

Officer Sims made several attempts to contact the property owner. Telephone and email communications from Officer Sims with the asset company occurred on the following dates:

- 09-13 @ 2:15 pm – left a voicemail
- 09-17 @ 10:23 am – left a voicemail
- 09-20 @ 10:00 am – left a voicemail
- 09-24 EMAIL – did not receive a response
- 09-27 EMAIL – did not receive a response
- 09-27 @ 7:25 am – left a voicemail
- 10-01 EMAIL – did not receive a response
- 10-01 @ 7:20 am – Officer Sims spoke with a representative who stated that the property had been flagged for maintenance work.
- 12-6 – Officer Sims spoke with a representative who explained the property was in custodial status which means that a reverse mortgage was in place, the owner became deceased with a pending balance before the note was transferred to GA in June of 2021.
- 12-27 – Officer Sims spoke with a representative and confirmed that a request has been to the maintenance contractor to move items that are outside the garage either inside or to a location that can't be seen. The representative will follow up on a timeline for this to occur.

Neighbors have continued to reach out to the City Manager, and Police Chief and believe that the city should take additional action to abate the property. City staff maintain the response has been appropriate and effective. However, it is ultimately City Council that determines whether a nuisance exists or not and if so whether the city should undertake its abatement. Ordinance 79-6 Section 46 (1) states "Upon determination by the Council that a nuisance exists, the Council shall cause a notice to be posted on the premises or the site of the nuisance, directing the person responsible to abate the nuisance." Section 46-50 establishes abatement procedures that city staff can implement if the City Council determines that a nuisance does indeed exist.

**Staff are requesting Council to review the information and determine if more information is needed or if there is sufficient information to determine if a nuisance exists at 470 North.**

If Council determines there is a nuisance the first step is that the City will issue a letter by certified mail to the person responsible which will include:

- A description of the property where the nuisance exists
- A direction to Abate the nuisance within 10 days from the date of notice
- A description of the nuisance.
- A statement that, unless the nuisance is removed, the City may abate the nuisance; and the cost of abatement will be charged to the person responsible.
- A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence.

- A statement that the person responsible may protest the order to abate by giving notice to the City Manager within 10 days from the date of the notice.

If the property is not abated within ten days and the notice is not protested the Council may cause the nuisance to be abated.

#### **BUDGET IMPACT**

Continuing to address the problem through outreach does not have a budget impact. Issuing a notice of abatement will also have no budget impact. Abating the property it will require significant staff time, and the City will have to cover the cost of cleaning up the property and removal and disposal of the vehicle, if a tow company will take it without a title. It may be possible for the City to place a lien on the property to recover those costs if they are not paid by the property owner, which will also take staff time and will include legal costs. The city has not budgeted to abate property and will need to find the financial resources to cover the costs until such time the City can be reimbursed.

#### **WORKLOAD IMPACT**

Issuing of a notice of nuisance will require a few hours of staff time from the City Manager and Police Chief. Abatement by the City will require additional time from the City Manager, Police Chief and Police Officer, Public Works and Finance staff and the City Attorney.

#### **STAFF RECOMMENDATION**

If Council determines that the current condition of the property does not rise to the level of a nuisance city staff will continue its current course of action.

If Council determines there is a nuisance staff recommend a two-phase approach – first staff can issue a notice of abatement. If there is no response to the notice and the property is not abated by the owner staff will return to city council with a cost and time estimate to abate the property.



Note: The bark chips were placed there for personal use by the neighbors not the property owners.

As of December 29<sup>th</sup> Front View







## City of Manzanita

### **COUNCIL RESOLUTION No. 22-01**

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANZANITA, OREGON, ADOPTING COUNCIL GOALS FOR 2022.**

**WHEREAS**, the Council periodically establishes goals to guide actions in carrying out the business of the City; and

**WHEREAS**, the City Council recognizes that establishing goals can help create more clarity and transparency around how the work of the city is prioritized; and

**WHEREAS**, the City Council participated in two in depth work sessions to evaluate and set goals on both November 13, 2021 and December 13 2021; and

**WHEREAS**, the City Council has set three key goals that will be carried out over multiple years and refined annually until such time that the council determines the goals have been met.

#### **GOAL 1 – LEVEL UP MANZANITA**

**WHEREAS**, the City Council determined that administrative functions of the city including the construction of a new city hall are essential to the functions of the city.

**Therefore, be it resolved by the City Council of the City of Manzanita** that the City Manager is hereby directed to enhance city operations through the incorporation of technology, modern record keeping, the development of a municipal code and the construction of a new city hall facility to ensure continued efficient provision of city services.

#### **GOAL 2 – BUDGET FORWARD MANZANITA**

**WHEREAS**, the City Council has determined that generating long term revenue and diversification of the city's revenue streams is critical to the cities on going health.

**Therefore, be it resolved by the City Council of the City of Manzanita** that the City Manager is hereby directed to advance strategic planning to enhance city revenue streams.

#### **GOAL 3 – ENVISION MANZANITA**

**WHEREAS**, the City Council understands that good public policy is founded on solid community engagement and that issues relating to livability and growth are expressed through policies in the Comprehensive Plan; and

**WHEREAS**, the Manzanita Comprehensive Plan sunset in 2010 and is in need of updating; and

**WHEREAS**, the City Council acknowledges that engagement with the community to develop policy to address both the costs and benefits of growth are essential to the city's future.

**Now, therefore, be it Resolved by the City Council of the City of Manzanita** the City Manager is hereby directed to move toward the development of a community based vision, and Comprehensive Plan update.

Introduced and adopted by the City Council on \_\_\_\_\_.

This resolution is effective on \_\_\_\_\_.

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Michael Scott, Mayor

ATTEST:

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Leila Aman, City Manager/ City  
Recorder

**From:** ]  
**To:** [Erik Harth](#); [Leila Aman](#); [jpegmam@ci.manzanita.or.us](mailto:jpegmam@ci.manzanita.or.us); [Linda Kozlowski](#); [Bill Upton](#); [joetherrien@comcast.com](mailto:joetherrien@comcast.com); [jim featherstone](#)  
**Subject:** Fw: 470 North The agenda pictures do not show the true nature of the garbage, scrap, tires, rotting bedding, and other debris.  
**Date:** Sunday, January 2, 2022 1:35:35 PM

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Please include the attached for the council meeting.

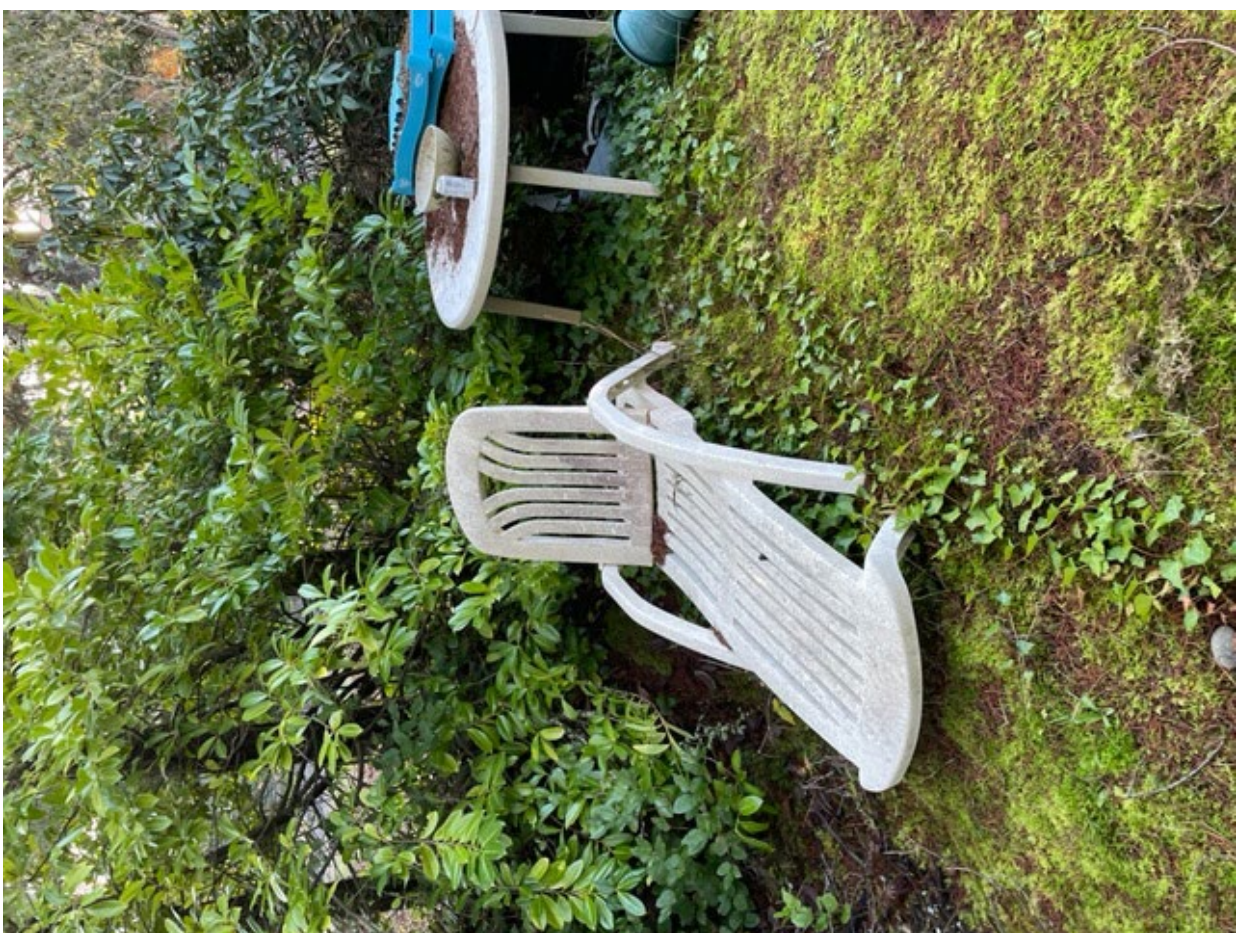
---

**From:** Jen <[jenmarquoit@gmail.com](mailto:jenmarquoit@gmail.com)>  
**Sent:** Friday, December 31, 2021 2:58 PM  
**To:** Dad <[marquoit@msn.com](mailto:marquoit@msn.com)>  
**Subject:** The dump





















Sent from my iPhone