

1. 2:00 P.M. Agenda

Documents:

[2021-03-17 Council Agenda.pdf](#)

2. Meeting Materials

[2021-03-City-Manager-Report](#)

[2021-02-Financial-Report-Council](#)

Documents:

[\(1\)2021-03-04 OHA Memo.pdf](#)

[\(2\)2021-169 RES Parks Open Space Master Plan Update.pdf](#)

[\(3\)Prospect Park Designation.pdf](#)

[\(4\)Selected Excerpts From Dawn Keller Regarding 2-18 PandC Meeting.pdf](#)

[\(5\)Commission Membership.pdf](#)

[\(6\) Muirheads Notes On Goals.pdf](#)

[\(7\) Prior Documents On City Council Goals.pdf](#)

[\(8\)804 Settlement Agreement.pdf](#)

2.I. Addendum Items To The City Council Packet

Documents:

[1. Boardwalk Recommendations By Trails Committee.pdf](#)

[2. ATTACHMENT A-01-26-2021.Pdf](#)

[3.ATTACHMENT B-01-26-2021.Pdf](#)

[4.BOARDWALK_For_The_Council_3-3-2021.Pdf](#)

[5.Kevin Shanley Abbreviated Resume_3-3-2021a.pdf](#)

[6.Photo_Collection.pdf](#)



**CITY OF YACHATS
REGULAR CITY COUNCIL MEETING
Yachats OR
Wednesday, March 17, 2021 at 2:00 pm
To Be Held Via Zoom
Join Zoom Meeting**

Join Zoom Meeting

<https://us02web.zoom.us/j/89374334152?pwd=K3lmL0kvSDhFV0tkcIRVTFNUR2h1UT09>

Meeting ID: 893 7433 4152

Passcode: 940353

One tap mobile

+16699006833,,89374334152#,,,,*940353# US (San Jose)

+12532158782,,89374334152#,,,,*940353# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 893 7433 4152

Passcode: 940353

Find your local number: <https://us02web.zoom.us/u/kblSYWEJFX>

REGULAR COUNCIL MEETING

- I. Announcements, Correspondence, and Proclamations
- II. Public Comment:
Topics not listed on the agenda 5 Minute limitation per person
- III. New Business
 - a. Looking ahead to eventual facilities opening
 - b. Municipal Judge
 - c. Recommendations from Parks and Commons Commission

The Yachats City Council meetings are open to the public and interested citizens are invited to attend. These are open meetings under Oregon law, but a work session is not a community forum; audience participation is at the discretion of the Council. Meetings are audio-recorded. Public meeting minutes are available for review at City Hall. The meeting place is accessible to persons with disabilities. For accommodations, please call (541) 547-3565, or Oregon Relay 1-800-735-2900 (TDD) two days in advance. City of Yachats does not discriminate on the basis of race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, sexual orientation, or any other legally protected status.

In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice.

Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD) two days in advance.

Posted 03/11/2021



- IV. Old Business
 - a. Commission membership residency requirements
 - b. Goals
 - c. Ocean View Drive and 804 settlement
 - d. Reaching out to the community
 - e. Interim City Manager
- V. Reports
 - a. Financial
 - b. Council
 - c. City Manager
- VI. Other Business
 - a. Mayor
 - b. Council
 - c. Staff

The Yachats City Council meetings are open to the public and interested citizens are invited to attend. These are open meetings under Oregon law, but a work session is not a community forum; audience participation is at the discretion of the Council. Meetings are audio-recorded. Public meeting minutes are available for review at City Hall. The meeting place is accessible to persons with disabilities. For accommodations, please call (541) 547-3565, or Oregon Relay 1-800-735-2900 TDD) two days in advance. City of Yachats does not discriminate on the basis of race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, sexual orientation, or any other legally protected status.

In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD) two days in advance. Posted 03/11/2021



DATE: March 4, 2021

TO: Leslie Vaaler, Mayor
Yachats City Council

FROM: Shannon Beaucaire, City Manager

SUBJECT: Considerations for Opening City Facilities

In considering when and how to reopen City facilities, the City Attorney offers the following guidance:

The City must comply with all OHA regulations for indoor spaces and indoor services. The potential liability to the City comes if it fails to comply with OHA regulations – whether or not the volunteers are vaccinated and whether or not customers are vaccinated. CIS will not provide the limited coverage that it does offer (defense costs, but not liability coverage) if the City is not following OHA regulations. So the mention of a “lax” atmosphere is a concern and one that the City should evaluate – if volunteers express disinterest in following the regulations then we should not expect them to do so and it could be unreasonable for the City to give them the chance. As I’m sure you know, OHA has a host of population density, signage, and cleaning requirements that will need to be followed. If the library does open, you might consider regulation spot-checks or weekly regulation audits for the first little while to ensure folks are following the rules. In other words, I think it reduces potential liability if the City not only require adherence to OHA guidelines, but follow-up and make sure that the guidelines are in fact being followed. Although these folks are volunteers, I think the safe route is to also ensure compliance with OHSA regulations for workplace environments. This might require such things as installing plexiglass barriers at the front counter and other work areas so that staff are separated from the public.

CITY OF YACHATS
RESOLUTION 2021-169

A Resolution approving 2017 Parks & Open Space Master Plan Update

WHEREAS, at its March 2, 2021 meeting, the Parks & Commons Commission discussed updating the 2017 Parks and Open Space Master Plan to include Prospect Park, and Ocean View Drive Park (also known as Peace Pole Pocket Park); and

WHEREAS Ocean View Drive Park, located on the west side of Ocean View Drive at 7th street, is bordered by private residences, offers convenient access to the beach, and is a favorite spot for whale watching; and

WHEREAS Prospect Park occupies the Prospect Street right-of-way from the parking area north of 2nd Street to Radar Road, includes a demonstration garden featuring native plants, offers sweeping ocean views, and has other features noted in the Attachment this resolution, and

WHEREAS, these two parks as described below have been and continue to be City properties managed by the Parks & Commons Commission and rightfully belong on the list of City Parks;

NOW THEREFORE, the City of Yachats resolves to update the 2017 Parks & Open Space Master Plan to include Prospect Park and Ocean View Drive Park and their descriptions.

EFFECTIVE DATE: This Resolution shall take effect immediately upon its adoption.

Passed and adopted by the Yachats City Council this 17th day of March 2021.

ATTEST:

Leslie Vaaler, Mayor

Shannon Beaucaire, City Manager

Attachment to Resolution 2021-169

Prospect Park

Location

Prospect Park occupies the Prospect Street right-of-way from the parking area north of 2nd Street to Radar Road. It rises approximately 100 feet and crosses 3rd and King Streets and terminates at Radar Road. A right turn at King Street and a walk of approximately 100 yards leads to a Horizon Hill connector. Vigorous walkers can head to the top of Horizon Hill (750 feet in elevation) or downhill to Yachats River Road



Description

The lower portion of the park is a demonstration garden featuring native plants. A winding gravel path including stairs leading to 3rd Street. This lower area includes three biomes with corresponding native plants – the sunny lower section, a shaded upper area and a narrow wetland along a small creek flowing through the park. There are several memorials in the garden including a cement bench with a view of the Yachats estuary. The middle section of the park rises steeply between 3rd and King Streets with several sets of stairs and sweeping ocean views. It is being restored from non-maintained grounds to native plants. The upper portion of the park requires significant invasive plant removal but has stone steps leading towards Radar Road.

Existing Recreation Facilities

- Parking at Prospect Street at short walk from the Drift Inn
- Gravel and Soft Surface Trail
- Memorial Bench
- Information on Native Plant identification

Visitation

A few thousand visitors annually. Importantly, the park trail provides direct access from the hillside to “downtown” Yachats for residents. Some residents use the trail several times each day.

Botanical Resources

The lower portion of the park (Prospect Garden) contains at least 60 Native plant species and many native allies – species related to native plants. Additionally, there are several species that integrate well with native plants to illustrate how to blend native and non-native plants. There are a few rare (and one endangered) plants in the garden. Some native plants including *Darmera peltata* and *Rhododendron columbianum* are rarely seen in the Yachats area due to habitat degradation. The docents maintain a complete data set of the plants including their uses by Indigenous People. Native plantings provide an opportunity to help restore the area to the habitat known to the Indigenous Peoples and are adapted to Yachats’s wet winters and arid summers. They provide habitat for native bees and mammals.

The middle section of the park, until 2020, was mainly consisted of volunteer escallonia and other invasive plants; primarily English ivy, Himalayan blackberry, Morning Glory, Orange-berry Cotoneaster, Holly, and many others. Docents, the City, and the Trails crews have made significant progress in removing the invasive plants replacing them with native plants including *Viburnum ovatum*, *Baccharis pilularis*, *Garrya elliptica*, and several forms of *Ceanothus*. This is an ongoing endeavor that is anticipated to take several years.

The upper portion of the park contains a few native plants but is dominated by invasive English ivy and Himalayan blackberry. It will require significant time, resources, and commitment to restore it to its natural state.

Cultural Resource Assessment

The entire park was used by Indigenous People. The area has been assessed by an archeologist and all hardscape installations were monitored to ensure there was no artifact disturbance. Planting and trail restoration is confined to shallow digging.

The creek through the park and an associated cistern on the neighboring lot served as the original water source for the City of Yachats. The cistern needs restoration but is still functional.

History

Lee Corbin, a mayor of Yachats provided the initial vision for this park. Over several years, residents worked to bring his vision to fruition. Armed with a trail plan drawn by local landscape architect, Jerry Sands, the then owner of Gerdemann Botanical Preserve, residents requested an archeological assessment and worked to secure City approval.

In 2007, a group of Yachats volunteers and youth from Angell Job Corps and cleared the lower area that was overrun by every weed known to Yachats. The volunteers created a trail and planted

shrubs. Sadly, a water main break washed out much of the plant material. The remaining plants did thrive.

By 2011, the relatively new Yachats Trails Committee led by chair Lauralee Svensgaard, worked to create a demonstration garden of native plants. Yachadians donated and planted many of the plants. This area of the park became Prospect Garden.

In 2010, Leslie Carter, a long-term resident, tireless community volunteer and frequent walker of this Yachats trail passed away. Her neighbors organized the placement of an iconic memorial bench. Additional memorials followed.

However, it takes persistence and constant care to maintain a garden in the Yachats climate. By 2014, despite efforts of the Yachats Trails crew, the garden was overrun by weeds. In a third iteration, the Trails team again cleared the area and replaced a few plants. Without constant maintenance, though, the garden was again totally overrun. In 2016, a few neighbors volunteered to provide the required on-going weeding. Once again, the trails crew came in and did a macro-clearing. The volunteer neighbors expanded the garden on both the south and east ends to encompass the whole right-of-way. In 2018, the Angell Job Corp. built a new fence to visually separate the garden from the neighboring property. In 2020, the trails crew conducted a massive invasive weed clearing of the center portion of the park (3rd – King) and the city removed the first eight of 20 Holly trees.

Over 300 native plants have been installed since 2016. Most were donated by Yachadians and the Trails Committee. The volunteer efforts of several locals keep the garden weed free (almost). The Yachats Trails crew regularly has work sessions to maintain the path, install wood chips and help with weeding. It truly takes the village to create and maintain this park.

.

2/18/2021: P&C members present: Linda Johnson, Dean Shrock, Craig Berdie, Dawn Keller, & Michael Hempen.

The Trails Committee requested that it be informed of and consulted on anything related to the town's trails (and parks) - planning, development, implementation, & maintenance. A motion to this effect was passed unanimously by the Commission and was sent to the City Council for approval.

Tara DuBois from the Cape Perpetua Collaborative gave a report on the interpretive signs that were being designed and created for placement in specific locales in the area (generally along established trails). She spoke of the size, content, and placement of such signs; the Trails Committee pledged to continue to assist Ms. DuBois with these interpretive signs. It was moved to seek approval from the City Council for the placement of these interpretive signs (as designated on the provided map). The motion passed unanimously and was sent to the City Council for approval.

Discussion of commission membership

Council has previously discussed the question of allowing or disallowing membership on commissions by individuals residing outside the county. Additionally, it has been noted that the Municipal code and the Commission Rules are not in agreement with respect to the Public Works and Streets.

Suggested action:

1. Reach a decision on which commissions, if any, may possibly include community members who reside outside the city and how many such members.
2. Pass a suitable motion to reflect Council's decision.

Municipal Code

Section 2.08.020 Membership—Compensation.

A.The commissions shall consist of seven members (except for the library commission which shall consist of five (5) members), appointed by the mayor, with the approval of the City Council.

B.The members of the commissions shall receive no compensation for their services.

C.All commission members must reside in the City. One member of the parks and commons commission may reside outside the City limits. One member of the Library Commission may reside outside the City limits.(Ord. 177 § 2, 1995)(Ord. 249, Amended, 01/20/2005)

Commission Rules

5.1 Planning Commission; 5.11 includes “All commission members must reside in the City.”

5.2 Parks & Commons Commission; 5.21 includes “One member of the commission may reside outside the City limits.”

5.3 Public Works & Streets Commission 5.31 includes One member of the commission may reside outside the City limits.”

5.4 Library Commission 5.41 includes One member of the commission may reside outside the City limits. “

Councilor Anthony Muirhead's notes on goals following meeting with Councilor Ann Stott

1. Foster an environment in city government that runs efficiently and is responsible to our citizens.

- Identify areas that we can improve if any within city departments.
- . Seek better ways to improve transparency between the city and our citizens
- Seek to modernize our robust efforts to seek public input.

2. Seek a long term plan to address and prioritize city projects.

- The plan would lay out projects based off greatest need that must be addressed
- What projects can be addressed now with current funds available (Still seek Grants when available to save funding for future needs)
- . What projects will the city need to seek Grants and or create a fund to save for the project?
- Will the city be able to address the greatest needs in a timely manner?

3. The city will make all decisions with guidance of preserving and protecting the area's natural resources.

- Seek an open forum with Cape Perpetua and the Marine Reserve to identify any issues that may need addressed.

4. Develop a task force to seek and identify housing solutions in the city of Yachats. What role can the city play to encourage housing development and long term rental availability?

- What is the State doing?
- What are the County Commissioners doing?
- What is the City of Waldport doing? How can we help support those efforts?

City Council Goals 2021

Leslie's list from notes of goal setting meeting

- 1) Improve timeliness, relevance, quality, and effectiveness of city service delivery.
- 2) Prioritize and demonstrate environmental responsibility in actions and decisions.
- 3) Strengthen relationships with community.
- 4) Provide a safe environment.
- 5) Demonstrate financial responsibility.

After listening to the recording of the goal setting meeting the following changes were made. Goals 1-3 remain unchanged. Goals 4 and 5 were rewritten using language from the meeting.

- 1) Improve timeliness, relevance, quality, and effectiveness of city service delivery.
- 2) Prioritize and demonstrate environmental responsibility in actions and decisions.
- 3) Strengthen relationships with the community.
- 4) Protect and improve the health and safety for residents, businesses, and visitors.
- 5) Establish a stable and reliable financial system.

The role of council goals should be to guide commissions and staff in their execution of city duties.

Improve the timeliness, quality, relevance and effectiveness of city service delivery.

- Survey the community about perceptions & experiences with city services for the next two years
- Develop standards for service & methods to assess their effectiveness
- Develop tools to assist providing services and measuring results & effectiveness

Demonstrate environmental responsibility in decisions and actions.

- Identify potential environmental issues that may impact our community
- Review city plans for potential environmental issues
- Encourage staff and commissions to act on opportunities that positively impact our planet

Improve citizen communications and involvement.

- Seek public comment before projects are initiated
- Make the yearly capital project list more visible
- Use Yachats Property Inventory for targeted e-mail to streets, neighborhoods, subdivisions, etc.
- Update Comprehensive Plan survey questions
- Develop methods to reach a greater percentage of our community

Strengthen relationships with the community (combine with improve communication)

- Demonstrate commitment to community input by using Comp Plan survey to guide decisions
- Improve institutional memory to ensure consistency in decision making

Provide a safe environment.

- Implement improvements in water supply and retention
- Add appropriate street signage where needed
- Consider traffic calming improvements in residential neighborhoods
- Identify improvements to manage storm water flow
- Monitoring and Completion of Oceanview Drive
- Improve skatepark ramp safety

Demonstrate financial sustainability and sound business practices.

- Improve financial reporting - monthly reports that are easy to understand
- Improve community access to financial data
- Bring accounting in-house
- Add a finance officer to staff
- Add financial expertise to Finance Committee

- Clarify the role of the Finance Committee
- Tap volunteer financial strength in the community

Prepared by: Greg Scott and Mary Ellen O'Shaughnessey

Work on goals for Feb 17 packet: Councilor Stott and Mayor Vaaler

- . 1) Improve timeliness, relevance, quality, and effectiveness of city service delivery.
 - a. Consider the role of the city administrator as well as those of other personnel positions, making sure they match Yachats' needs. Address with suitable actions.
 - b. Match code enforcement delivery, written code, and citizen's needs
 - c. Monitor vacation rental license enforcement and tax collection
- . 2) Prioritize and demonstrate environmental responsibility in all actions and decisions.
 - a. Prioritize water sustainability: plan for water storage and protection of watershed
 - b. Protect trees and forested areas with an eye to terrain stability, views, air quality, and more.
 - c. Protect bluff along Ocean view drive
- . 3) Strengthen relationships with community.
 - a. Provide opportunities to listen to citizens; host community open forums to seek input and guidance from the community
 - b. Develop a 2035 vision plan
 - c. Take steps to preserve the character of our community
 - d. Advertise and sponsor modest cost events/activities that brighten the lives of citizens
 - e. Develop good communication with businesses and chambers.
- . 4) Provide a safe environment.
 - a. Prioritize water sustainability: plan for water storage and protection of watershed
 - b. Adopt and enforce appropriate pandemic measures to protect our citizens
 - c. Make the 804 South trail safe for pedestrians (with enhancements that encourage walking)
 - d. Make intersections safer by signage, cones, or other modifications
 - e. Determine alternate egress routes and educate citizens about them
 - f. Ensure parks are safe for users of all ages
- . 5) Demonstrate Financial Responsibility.
 - a. Practice longterm planning, making choices that allow city to build up reserves; rethink the finance committee to provide superb CIP guidance.

SETTLEMENT AGREEMENT
Yachats County Road 804 Mediation

PARTIES

1. *PAIGs.* 1000 Friends of Oregon, an Oregon nonprofit Corporation, Oregon Shores Conservation Coalition, an Oregon nonprofit Corporation, and The Friends of the Historic 804 County Road and Hiking Trail, Inc., an Oregon nonprofit Corporation, all of their subsidiaries, and all direct or remote predecessor or successor entities of any of the foregoing will be collectively referred to as "Public Access Interest Groups" or "PAIGs."

2. *State.* The State of Oregon is acting exclusively by and through i) the Department of Parks and Recreation and ii) the Oregon Economic and Community Development Department. If a specific term or obligation applies to only one or the other of these Departments, such Department shall be separately referenced. If a specific term or obligation applies to both Departments, the word "State" shall be used.

3. *County.* Lincoln County, Oregon, will be referred to as "the County."

4. *City.* The City of Yachats, in Lincoln County, Oregon, will be referred to as "the City."

5. *Title Companies.* Chicago Title Insurance Company of Oregon is an Oregon Corporation. Security Union Title Insurance Company is a California Corporation. Ticor Title Insurance Company is a California Corporation. Stewart Title Insurance Guaranty Company is a Texas Corporation. First American Title Insurance Company of Oregon is an Oregon Corporation. TransNation Title Insurance Company is an Arizona Corporation. Each such company, any subsidiary or affiliated entity of any such company, and all direct or remote predecessor or successor entity of any of the foregoing will be collectively referred to as "Title Companies."

6. *Reference.* Each of the PAIGs, the State, the County, the City and each of the Title Companies will, collectively, be referred to as "the Parties."

PROPERTY

7. *Lot 1.* Lot 1, Block 4, of Ocean Crest Subdivision. Lincoln County, Oregon is presently owned by the City of Yachats, a municipal Corporation, and will be referred to as "Lot 1."

8. *Lot 26.* Lot 26, Block 4, of Ocean Crest Subdivision. Lincoln County, Oregon, is presently owned by the owners of the platted building lots

within the subdivision of Ocean Crest, their heirs and assigns, and will be referred to as "Lot 26."

9. *Lot 13.* Lot 13, Block 4, Ocean Crest, Lincoln County, Oregon, is presently owned by Jerry W. Daniels and Terri Lee Daniels, as tenants by the entirety, and will be referred to as "Lot 13."

10. *South Road 804.* Portions of County South Road 804 in Lincoln County, Oregon, extend or purportedly extend over or along certain real property situated within subdivisions known as Ocean Crest, 1st Addition to the City of Yachats, and the 3rd Addition to the City of Yachats. In this Agreement, any reference to "South Road 804" refers only to that portion of the actual or alleged road which is described in Exhibit A. No references to South Road 804 are intended to imply or admit that South Road 804 was or was not ever legally established, has or has not been properly vacated, does or does not exist and does or does not provide any rights of access, enjoyment, recreation, use or otherwise to any members of the public other than those individuals who own, as of the date of this Agreement, the parcels of property over which the Road is allegedly situated or whose property it allegedly touches (collectively, "Affected Property Owners"). The parcels of property that South Road 804 actually or allegedly touches or crosses will be referred to as "the Affected Properties."

11. *Waldport-Starr Creek Road 804.* This term refers to the road or alleged road traversing approximately nine miles along or near the Pacific Ocean, between Starr Creek and Waldport, Oregon, as described in Exhibit B. No references to that Road are intended to imply or admit that that Road was or was not ever legally established, has or has not been properly vacated, does or does not exist and does or does not provide any rights of access, enjoyment, use, recreation, or otherwise to any members of the public.

12. *Adobe.* A retail establishment known as "the Adobe," the real property on which it sits, and two adjoining lots to the north will be referred to as "the Adobe Property." This property is also referred to as tax lots 100, 200, and 300 of Map 14-12-22-DD.

LITIGATION AND DISPUTES

13. *Vacation Proceedings.* In 1997, the County commenced certain administrative proceedings (In the Matter of Vacation of a portion of Waldport-Yachats County South Road 804 (South), V-109) designed to vacate South Road 804 and vest any and all rights in and to the property traversed by South Road 804 in the Affected Property Owners. Thereafter, the County formally purported to vacate South Road 804 under Order 9-98-309. An appeal was taken from that decision to the Oregon Land Use Board of Appeals (36 Or. LUBA 288), and an appeal to the Oregon Court of Appeals (164 Or. App. 426) followed. Thereafter,

there were further proceedings in the Land Use Board of Appeals (38 Or. LUBA 699), culminating in a remand, to the County. All such Vacation proceedings, whether at or before the County, the City, any administrative agency, tribunal or panel (including the Land Use Board of Appeals), or any court, including the Oregon State Court of Appeals, whether concluded, pending or threatened, shall be referred to as the "Vacation Proceedings."

14. *Quiet Title Action.* In 2000, certain Affected Property Owners commenced an action in the Circuit Court for Lincoln County, Oregon, under Cause No. 001438, to, among other things, obtain a decree quieting their respective titles in and to the property on which South Road 804 allegedly traverses or touches and for any claims relating to South Road 804. The defendants include the City and the County. Intervenor include Oregon Shores Conservation and Coalition and the Friends of the Historic 804 County Road and Hiking Trail, Inc.

15. *Yachats Exception.* The Yachats City Council adopted an Exception to Statewide Planning Goal 17 and an amendment of the Yachats Comprehensive Plan and Development Code on December 27, 2000, by Yachats Ordinance No. 218, concerning portions of South Road 804. That action, referred to as the "Yachats Exception" was appealed to LUBA by the PAIGs on January 25, 2001. The appeal is pending.

16. *Controversies and Questions.* There is a present controversy between and among the PAIGs, the Affected Property Owners, the City, and the County, as to: (a) whether South Road 804 exists and (b) whether any members of the public, other than the Affected Property Owners, have rights to utilize South Road 804 and/or Affected Properties for walking, access to or along the beaches or the ocean, recreation, or any other ingress, egress, use or enjoyment of any type or nature; (c) whether there is a public interest in access over the use of South Road 804 and adjoining land, and (d) whether the Affected Property Owners have exclusive enjoyment of the Affected Properties ("the Controversy"). The Controversy forms the core of the matters at issue in the Vacation Proceedings, the Exception, and the Quiet Title Action. Additionally, there is a question about the exact location of County Road 804 between Waldport and Starr Creek, its relation to roads now in use by motorized vehicles, and its relation to the public beach.

17. *Title Companies' Role.* Some of the Affected Property Owners have title insurance, which allegedly obligates the Title Companies to defend and/or indemnify their insureds in connection with all or some of the Controversy. The Title Companies join with the other Parties to this Agreement in seeking to resolve the Controversy and, to that end, are prepared to provide part of the consideration necessary to such resolution.

18. *State's Role.* The State is not a party to the Quiet Title Action or the Vacation Proceedings, but has an interest in (i) obtaining guaranteed public rights of access along portions of South Road 804 and (ii) the continued economic development of the tourist industry in the area.

19. *Purpose.* To resolve doubtful and disputed claims, and without any admission of liability, rights, or wrongdoing by any Party, but solely for purposes of finally resolving the Controversy and other issues, and to avoid the risk, uncertainty and expense of litigation, the Parties agree as follows:

AGREEMENT

Money

20. *Proceeds.* "Settlement Proceeds" shall consist of the sum total of, and no more than, the following contributions plus all interest earned in the Settlement Proceeds escrow account described in paragraph 21: (a) the State by and through the Parks and Recreation Department will contribute \$25,000; (b) the State by and through the Oregon Economic and Community Development Department will contribute \$25,000 from the Strategic Reserve Fund; (c) the County and City will contribute a total of \$50,000, to be apportioned among them pursuant to terms of a side agreement between them; and (d) the Title Companies will contribute \$190,000, which will be apportioned among them pursuant to terms of a side agreement between them. Collectively, the State, the County, the City, and the Title Companies may be referred to as the 'Payors.'

21. *Escrow.* The County shall open an interest bearing, insured escrow account with a national bank in the State of Oregon, and the County shall select the bank ("Escrow"). All Settlement Proceeds shall be deposited into Escrow by the County, to whom all Settlement Proceeds shall be paid for the sole purpose of complying with this Settlement Agreement. The Settlement Proceeds shall not be deemed property of the County for any purpose. All Settlement Proceeds shall be paid by check payable to "Lincoln County—South Road 804 Settlement Account." Lincoln County shall open the Escrow as trustee of the escrowed funds. From that time until the period ending eighteen (18) months after the County becomes eligible to disburse funds under paragraph 23, (i) Lincoln County shall be the sole signatory on the Escrow; but (ii) it may not direct disbursement on funds from that account, or draw checks on that account, except in full compliance with the express terms and conditions as set forth in paragraphs 50-56. After 18 months, the fund shall be managed as described in paragraph 57. All Parties (other than the County) who contribute Proceeds to the settlement of this matter and/or the Escrow pursuant to this Agreement are fully and forever released and relieved of any liability, present or future, known

or unknown, in connection with any error or defalcation in the disbursement, expenditure or direction of any of the Settlement Proceeds paid into the Escrow.

22. *Tender.* All Settlement Proceeds shall be tendered to the County in accordance with the above instructions within 30 days after the Agreement is fully executed.

23. *Disbursement.* Disbursement of funds from Escrow shall not occur until and unless the following conditions are fully and timely fulfilled:

(a) There shall be a "Final Vacation Order," which shall consist of County issuance of an order vacating South Road 804 pursuant to paragraphs 25-26 hereof, County transmittal of notice of that order to all persons or entities entitled by law to such notice, and either: (i) the passage of 60 days from completion of such notice with no service or filing of any appeal from or collateral attack on the order; or (ii) in the event of such an appeal or attack, a final and unconditional dismissal of same (or full affirmance of the Vacation Order with no further possibility of appeal), all to be fully completed within two years of County issuance of the Vacation Order;

(b) All conditions and requirements imposed on the PAIGs by paragraph 35 (Intervention), 45 (Assurances) and 46 (Covenant: Yachats) have been fully satisfied; and

(c) No PAIG is in material breach of this Agreement.

If each of the foregoing conditions is fully and timely fulfilled, the funds in Escrow shall be distributed in accordance with paragraphs 50-57, and thereafter shall not be returned to Payors.

24. *Return of Funds.* Funds shall be returned, if necessary, as described in paragraphs 28 (Termination for Failure to Defeat Attack or Appeal) and 42 (Termination).

The Vacation of South Road 804

25. *Vacating South Road 804.* The County shall act to reopen and/or continue with the Vacation Proceedings in respect to South Road 804 as soon as practicable upon full execution of this Agreement, and shall take all steps required by law and/or this Agreement, including publishing and mailing notice and making all appropriate findings, to fully and finally vacate South Road 804.

26. *County Deadline.* The County shall approve and issue an order vacating South Road 804 ("the Vacation Order") no later than 150 days from full execution of this agreement. The Vacation shall include, but is not limited to, findings attached as Exhibit C, provided, however, that any such

additional findings make no representations of the facts or circumstances of the case beyond those contained in this Agreement.

27. *Best Efforts.* If there is an appeal of or collateral attack on the Vacation Order from any source within 60 days of its becoming a "final decision" (i.e., once the County has transmitted notice of that Order to all persons or entities entitled by law to such notice) the Parties, except as provided in paragraph 62 (limiting State's obligations), will make best efforts to defeat it. As used in this paragraph, "best efforts" include (but are not necessarily limited to) defending the decision on appeal as a respondent or an intervenor on the side of the respondent(s) and actively participating in or contributing to appropriate pleadings, briefs and arguments to defend the decision subject to approval by the principal authors of the pleading, brief, or argument in question.

28. *Termination for Failure to Defeat Attack or Appeal.* This agreement shall be terminated (with the consequences specified in paragraph 42) unless the appeal and/or collateral attack, if any, is fully, finally, and unconditionally resolved (i.e., the Vacation Order is affirmed and there is no further possibility of appeal) within two years of County issuance of the Vacation Order.

29. *Notices from County.* No later than 4:30 p.m. one business day after the date it issues the Vacation Order, the County shall deliver written notice of such action and a copy of the Order to counsel for the Parties to this Agreement and counsel for plaintiffs in the Quiet Title Action. If any appeal from or collateral attack on the Vacation Order is ever served, filed or threatened in writing, the County shall immediately provide written notice thereof, with copies of all related documents, to all such counsel.

30. *No Opposition.* No Party shall directly or indirectly oppose or delay the Vacation of South Road 804 or Waldport-Starr Creek Road, pursuant to this agreement, or directly or indirectly support or encourage any individual or entity seeking to delay, block or frustrate any such vacation. Each Party, except as provided by paragraph 62, shall make its best efforts to further the Vacation Order applicable to South 804, and to defend against any efforts by any individual or entity to delay, block, frustrate, appeal or attack any such order, as required by paragraph 27.

31. *Yachats Exception.* If and when the South Road 804 Vacation decision is final and the appeal period has expired without appeal (or the decision has been affirmed on appeal and not further appealed), the City shall withdraw and rescind the Yachats Exception decision (Ordinance No. 218), such process being initiated at the first possible meeting of the City Council subsequent to the finalization (as discussed above) of the Vacation decision.

Waldport-Starr Creek Road 804

32. *Vacation.* Within 60 days of the Vacation Order pursuant to paragraphs 24-26 hereof becoming a final decision, the County shall initiate vacation and/or legalization proceedings with respect to the Waldport-Starr Creek portion of County Road 804, as described in Exhibit, B). Provided, however, that if, on the 60th day following the date the Vacation Order becomes a final decision, an appeal or collateral attack on that order is pending, the County's responsibilities under this paragraph are postponed until such appeal or collateral attack is fully, finally, and unconditionally resolved. The County shall diligently prosecute those proceedings to achieve the goal of vacating/legalizing (as the terms legalize or legalization are used in ORS 368.201-221) all portions of said Waldport-Starr Creek portion of County Road 804 that allegedly or actually touch, cross or affect any privately-owned parcels of property. Provided, however, that (a) such Road shall continue to exist on the public beach and (b) such Road shall continue to exist over those portions of such Road that, at the date of this Agreement, are actually utilized by the public for motor vehicles and utilities.

33. *Relation to other aspects of Agreement.* The County's obligation under paragraph 32 shall survive the full execution, closing and performance of and under this Agreement. Each of the signatories to this Agreement shall have the right to demand performance by the County under paragraph 32. However, failure of the County to honor its obligations under this paragraph, or non-vacation/legalization of any portion of the Waldport-Starr Creek Road 804 despite the County's diligent efforts to obtain that result, shall not affect the enforceability or validity of this Agreement or the rights and obligations it creates, shall not be a condition to performance under any other provision of this Agreement, and shall not be a basis for termination of this Agreement, notwithstanding any other provisions to the contrary.

34. *Consideration.* Nothing in this paragraph or in this Agreement is intended to be, or shall constitute, a waiver or relinquishment by the Title Companies or their insureds (past, present or future) of the right to contest the actual, alleged or proposed existence or location of the Waldport-Starr Creek portion of County Road 804 insofar as it allegedly or actually touches, crosses, or is situated on any portion of any property owned or allegedly owned by any such insured. The consideration paid by the Title Companies for the promises and undertakings contained in this paragraph is the bargained-for additional amount that the Title Companies will pay, which is part of the overall settlement amount set forth in paragraph 20 hereof; an amount that would have been lower but for the promises and undertakings contained in this paragraph.

The Quiet Title Action

35. *PAIGs' Intervention.* As a condition precedent to this Agreement, the PAIGs must obtain, within 60 days of full execution of this Agreement an order unconditionally permitting their intervention in the Quiet Title Action, as real parties in interest. All parties to the Quiet Title Action shall cooperate in obtaining that order.

36. *Joinder of Affected Property Owners.* Within ten days of full execution of this Agreement, the plaintiffs shall begin and continue in the exercise of their best efforts to persuade Affected Property Owners who are not plaintiffs in the Quiet Title Action to join in that Action as plaintiffs. The failure of any such Affected Property owner to agree to become a plaintiff shall not affect the validity or enforceability of this Agreement.

37. *Decree.* After this Agreement is fully executed, the intervention order required in paragraph 35 has been obtained, and 60 days have passed from issuance of the Vacation Order, the Plaintiffs in the Quiet Title Action shall present a Decree quieting title in the Affected Property Owners to the Circuit Court of Lincoln County and shall obtain a hearing date for ruling on the proposed Decree. The Decree shall be identical in form and substance to Exhibit D. Provided, however, that the Quiet Title Decree shall not be presented for entry (or shall be withdrawn, if already presented) if, on the 60th day from issuance of the Vacation Order, an appeal or collateral attack on that order is pending. However, if there is a Final Vacation Order within two years of county issuance of a Vacation Order pursuant to paragraphs 25-26, the Plaintiffs shall promptly present, for entry, a Decree in form and substance identical to Exhibit D, and the provisions of paragraph 38 and 39 shall fully apply.

38. *Condition for Setting Aside.* If an appeal or collateral attack on the Vacation Order is pending two years after the date of its issuance, and this Agreement Terminates as a result, any Quiet Title Decree previously entered will be set aside, as further provided in Exhibit D, and the parties to the Quiet Title Action will promptly cooperate to obtain that result.

39. *No Opposition.* Provided the Quiet Title proceeding is concluded after the final land use decision in the vacation proceeding and is based on the order of vacation, none of the Parties, except as provided in paragraph 62, shall directly or indirectly encourage, support or take action to oppose or delay the entry of the Quiet Title Decree pursuant to this Agreement. Once that Decree is entered in substantially unmodified form, no Party shall appeal or directly or collaterally attack the Decree, or directly or indirectly encourage or support delay of, appeal from or direct or collateral attack on the Decree or its entry pursuant to this Agreement.

40. *Appeal or Collateral Attack.* If there is an appeal of or collateral attack on the Quiet Title Decree as specified in paragraph 37, from any source at any time, the PAIGs shall promptly and unequivocally file with the court a statement that they support the enforcement and validity of the Quiet Title Decree previously entered, provided the Quiet Title proceeding is concluded after the final land use decision in the vacation proceeding and is based on the order of vacation. The PAIGs need not articulate any particular legal theory in support of that joinder other than the validity of the underlying Agreement and Quiet Title Decree. The PAIGs shall take no steps or positions that undermine the enforcement and validity of the Quiet Title Decree previously entered.

Remedies and Termination

41. *Conditions to Finalized Agreement.* The Agreement, and all obligations under it, are conditioned on timely and strict compliance with the provisions and conditions in paragraphs 23 and 25-28, 35 and 45-46 and failure of such compliance will cause Termination of the Agreement, with the consequences set forth in paragraph 42.

42. *Termination.* Upon failure of any condition or material breach of any provision in this Agreement, except those in paragraphs 32-34 (the Waldport-Starr Creek provisions), or failure to tender Settlement Proceeds in the time and manner specified in paragraph 22, (i) all Settlement Proceeds, including accrued interest, shall be returned to the Payors in proportion to their payments; and (ii) all other rights or obligations under this Agreement shall immediately terminate without further action or agreement ("Termination" or "is Terminated"). Provided, however, that once disbursement occurs pursuant to paragraph 23, funds may not be returned, as stated in that paragraph. Upon Termination, all other legal and/or governmental action initiated in furtherance of this Agreement (i.e., the Vacation and Decree contemplated by this Agreement) that are in process or would otherwise commence shall cease pursuant to this agreement and if previously finalized, shall be nullified, if possible. Upon Termination, each party to the Vacation Proceeding and each party to the Quiet Title Action shall return to the status quo ante (immediately preceding full execution of this Agreement) as far as possible, with all rights that they possessed immediately before full execution of this Agreement, and may proceed as if this Agreement had never been made.

43. *Mediation.* The Parties shall participate in mediation if this agreement is Terminated. In such case, the Title Companies jointly, and the PAIGs jointly, shall each appoint one representative to choose a mediator, and

the City and the County shall each appoint one representative to choose the mediator. The costs of the mediator shall be shared equally among those four groups. Any Party may terminate the mediation process after sixty days for any or no reason. If any individual or entity not party to this agreement challenges or appeals the County Road Vacation Order for South Road 804 on the grounds that the findings are insufficient to support the County's decision, then the Parties shall participate in mediation.

Further Assurances, and Implementation

44. *Notice.* The Title Companies shall, within ten (10) business days after full execution of this Agreement, and again approximately 45 days thereafter, cause to be published, in the newspaper with the largest daily or weekly circulation in Lincoln County, and if different, the newspaper with the largest daily or weekly circulation in Yachats, as well as in the Portland Oregonian and the general circulation newspapers in Salem and Eugene, a notice of the Quiet Title Action and Vacation Proceeding. The notice shall occupy no less than one-sixteenth (1/16th) of a newspaper page. The Title Companies may waive this provision, or reduce the scope of notice, in their sole discretion.

45. *Assurances.* All Parties shall take all steps necessary or reasonable to effectuate the intent and terms of this Agreement. No Party shall take any steps to directly or indirectly obstruct, delay, or make more difficult full implementation of and compliance with this Agreement or any its terms.

46. *Covenant: Yachats.* The PAIGs represent, covenant and agree, now and forever, that they will neither directly nor indirectly undertake, support, or encourage any claims or attempts to claim rights of access, ingress or egress, use, ownership, or any right, title or interest, or use rights of any type (including, without limitation, rights of access, rights of recreational use, rights of enjoyment, or otherwise) in or to any of the Affected Properties, insofar as any such claims or assertions touch on, stem from, or bear in any way on the existence or alleged existence of South Road 804 or rights or interests relating thereto. Without limiting the generality of the foregoing, the PAIGs represent and agree that they will never assert any prescriptive rights or rights under the public trust or any doctrine related to (a) South Road 804; or (b) any of the Affected Properties. However, nothing in the foregoing prohibits consensual efforts to purchase any interest in the referenced properties. Neither the City nor the County will ever take any action to privatize or diminish the public access to and along the shore and open space that will be acquired pursuant to this Agreement. These agreements, covenants and representations are necessary and critical inducements to the decision by all other Parties to enter into this

Agreement, and shall forever survive full execution, closing and performance of and under this Agreement.

47. *Covenant: Waldport-Starr Creek.* The PAIGs represent, covenant and agree, now and forever, that they will neither directly nor indirectly undertake, support, or encourage any claims or attempts to claim rights of access, ingress or egress, use, ownership, or any right, title or interest, or use rights of any type (including, without limitation, rights of access, rights of recreational use, rights of enjoyment, or otherwise) in or to those portions of Waldport-Starr Creek Road 804 which are to be vacated or from which a legalized portion of the Road has been moved. Without limiting the generality of the foregoing, the PAIGs represent and agree that they will never assert any prescriptive rights or rights under the public trust or any doctrine related to any parcels or land touched or allegedly touched by those portions of Waldport-Starr Creek Road 804 which are to be vacated, or from which a legalized portion of the Road has been moved. However, nothing in the foregoing prohibits consensual efforts to purchase any interest in the referenced properties. These agreements, covenants and representations are necessary and critical inducements to the decision by all other Parties to enter into this Agreement, and shall forever survive full execution, closing and performance of and under this Agreement.

Stay of Yachats Exception Decision Appeal (LUBA No. 2001-026)

48. *Stay.* The City and the PAIGs, which are parties to LUBA Appeal No. 2001-026, will not oppose an indefinite stay or extension of time to file the record in the LUBA proceedings in that case. The extension granted by LUBA shall remain in effect until either the City withdraws and rescinds the Yachats Exception Decision (Ordinance No. 218) or the PAIGS, petitioners in the LUBA appeal, give written notice to the parties to the appeal that they desire to proceed with the appeal, whichever comes first. Upon receipt of the written notice, City shall have ten (10) days within which to transmit the record of the City's proceeding to LUBA.

Use of Funds

49. *Use and Disbursement of Funds.* The County shall distribute no Proceeds or other funds from Escrow except as permitted under paragraph 23.

50. *Initial Permitted Expenditures.* The Settlement Proceeds shall be used, subject to the conditions and terms of this Agreement, to

(a) to acquire Lot 13, if and only if the then-owner(s) of any such lot, fully agree to the fact, consideration for, and terms of any such proposed acquisition, or

(b) to acquire any other ocean front lot or lots in the Ocean Crest subdivision, but if and only if the then-owner(s) of any such lot, fully agree to the fact, consideration for, and terms of any such proposed acquisition.

Negotiations for the possible acquisition of Lot 13 shall be undertaken by a neutral third party, who shall be Carie Fox unless otherwise agreed by the County, City and the PAIGs.

51. Second Tier Class of Permitted Expenditures. The Settlement Proceeds shall be used, after six weeks from the date settlement proceeds first become available, subject to the conditions and terms of this Agreement, to :

(a) acquire Lot 26;

(b) acquire any other ocean front lot or lots in the Aqua Vista or Ocean Crest subdivisions, including Lot 13 if possible and if not completed above, but if and only if the then-owner(s) of any such lot, fully agree to the fact, consideration for, and terms of any such proposed acquisition and terms of any such acquisition and acquisition of lots other than 13 is unanimously agreed to by the County, the City and the PAIGs.

(c) acquire a public access easement over the Adobe Property, at the actual and necessary cost of (1) relocating the sewer and water lines, subject to approval by appropriate regulatory agencies including the Oregon Department of Environmental Quality and the Oregon Health Division of the Department of Human Services, or (2) \$50,000, whichever is less. "Actual and necessary cost" should be determined by multiple competitive bids or proposals, and should not exceed the amount of the lowest responsive and responsible bid or proposal. This easement shall be granted to the State of Oregon Parks and Recreation Department. The easement would be at least 8 feet wide and within 20' from the westward side of the Adobe Motel, or at the sewer line if that is preferable to the Grantor, the PAIGs, the County, and the City. None of the landowner's rights to apply for rip-rap protection shall be affected by this agreement;

(d) acquire and improve a pedestrian connection of no more than eight (8) feet in width between Marine Drive and Aqua Vista Drive within 250' of the intersection of Ocean View Drive and Marine Drive, as envisioned in the Yachats Circulation Plan;

(e) construct improvements on the easements or lots purchased pursuant to paragraphs 50 and 51 to develop access, buffer/screen adjoining properties, and protect vegetation, as well as to place signage on any lot acquired pursuant to this agreement, which would give notice that the lots are

public and that they provide shoreline access. All signage erected within the Ocean Crest Subdivision shall be approved by the City.

52. Final Permitted Expenditures. After either completion of paragraph 51 (a)-(e), or after twelve months and upon unanimous agreement of the City, the County, and the PAIGs, Settlement Funds may be expended on the following projects:

(a) acquire and improve a pedestrian connection of no more than eight (8) feet in width between the Adobe Property and Aqua Vista Drive, but only if the fact, consideration for, and terms of any such acquisition and improvements are unanimously agreed to by the County, the City and the PAIGs;

(b) construct a stairway access to the beach within and on property acquired pursuant to paragraphs 50(a) or (b) or 51 or on Lot 1.

(c) acquire up to two unpaved parking spaces on Lot 1, Lot 26, or other lot acquired pursuant to the terms of this paragraph (parking spaces are optional).

(d) construct improvements on the easements or lots purchased to develop access, buffer/screen adjoining properties, protect vegetation and place signage on any lot acquired pursuant to this agreement, which would give notice that the lots are public and that they provide shoreline access.

53. Prohibition. No Settlement Proceeds may be used for condemnation or other involuntary transfers, except to acquire Lot 26.

54. Covenant of Good Faith. No Party shall directly or indirectly oppose or delay the acquisitions referenced above, nor otherwise, or directly or indirectly support or encourage any individual or entity seeking to delay, block or frustrate the acquisitions. The City, the County, and the PAIGs represent that they shall make their best efforts to further the acquisitions.

55. County Ownership. All of the real property interests to be acquired with Settlement Proceeds shall be owned by and title shall be vested in the County, except for the Adobe easement, which shall be granted directly to the State of Oregon Parks and Recreation Department, and except as required by paragraph 63. However, the County shall, as soon as practicable after acquisition of title by deed, dedicate the property thus acquired to the public by execution of a Conservation Easement, pursuant to Oregon Revised Statute 271.715 et seq., solely as open space and to provide public access to the shore. Language shall reflect that this is a permanent easement made pursuant to this negotiated settlement. The County shall then transfer its remaining right, title and interest in and to the property, subject to the Conservation Easement, to the City.

56. Management. The order in which the funds are spent and the projects (selected from those listed in paragraphs 50 through 52) on which the Settlement Proceeds are spent, shall, subject to the conditions and terms in this

Agreement, be determined by the County during the eighteen (18) months it is manager, and thereafter, by the manager appointed in accordance with paragraph 57. Failure of the relevant manager to make a decision(s) respecting use of the Settlement Proceeds shall not affect the binding nature of this Agreement or deprive any Party contributing Settlement Proceeds of all rights and benefits under this Agreement.

57. *New Manager.* If any Settlement Proceeds are not expended eighteen (18) months after the County is eligible to disburse funds, the County shall relinquish control of the Escrow and all Proceeds remaining in it to a New Manager to be appointed by unanimous agreement of the PAIGs, City and County, who shall have the obligation to diligently pursue acquisitions in paragraphs 50-52 until all funds are expended. If these parties are not able to reach unanimous agreement within thirty (30) days after the eighteen (18) months have run, the City and County shall jointly appoint one representative to choose a manager, and the PAIGs shall jointly appoint one representative to choose a manager. If either the City and County or the PAIGs have not appointed their representative within sixty (60) days after eighteen (18) months, the other representative shall choose the fund manager. If the two representative cannot agree on a fund manager within thirty (30) days, the manager shall be chosen by majority decision of the two representatives and Carie Fox. The new manager may spend any residual funds to purchase additional trail easements/property along the existing County Road 804 (north or south) Trail/Ocean View Drive Trail from Starr Creek on the north, south to US Highway 101.

Other City Obligations

58. *Adobe.* The City, to the full extent permitted by law, shall make its best efforts to assure that the water and sewer lines presently serving the Adobe Property are relocated in accordance with law as needed to allow for conveyance of the Adobe Property easement. Without limiting the generality of the foregoing, the City shall not delay or obstruct such movement, and shall issue all permits, orders, or instruments necessary or reasonable to facilitate such movement.

59. *Maintenance.* The City shall develop and maintain Lot 1 and all lots transferred to it pursuant to this Agreement for public access to and along the shore and for open space, and shall maintain existing native vegetation on such lots consistent with good conservation practices and reasonable public access (at a minimum, a safe, unimpeded trail) to and along the ocean shore. The City shall be responsible for removal of any invasive species, such as

blackberries or scotchbroom, but removal shall be by means other than herbicides.

60. *Lot 1.* Lot 1 shall be dedicated by a conservation easement pursuant to ORS 271.715, et seq. solely as open space and to provide public access to the shore. Language shall reflect that this is a permanent easement made pursuant to this negotiated settlement.

61. *New Manager.* The City shall pay one third of the cost for the New Manager under paragraph 57.

State of Oregon Obligations

62. *Costs and Cost Share.* The State will contribute to the Settlement Fund as described in paragraph 20 above. The State shall not be required to make any payment, nor pledge any public resources except as expressly set forth in this paragraph 62. In particular and without limitation, the State shall have no obligation to support or participate in the activities described in paragraphs 23-47.

63. *State Real Property Interest.* Upon or after the acquisition of property from the Settlement Proceeds as described in paragraphs 50-52, the State, by and through the Parks and Recreation Department, shall be granted a co-ownership interest, a public access right of way, or a conservation easement. Upon request from the County or City, the Parks and Recreation Department may waive the right to receive such real property, so long as the aggregate value of the other real property interests transferred or to be transferred to the Department equals or exceeds its contribution to the Settlement Proceeds.

Other County Obligations

64. *Costs.* The County shall pay, in addition to the \$50,000 County/City Settlement Proceeds it is contributing pursuant to paragraph 20 above, the actual and reasonable costs, charges and attorneys' fees for any transfer of any property, including easements, that is transferred pursuant to this Agreement, and shall pay the reasonable and necessary costs and fees of any appraiser who is retained, including in connection with an acquisition of property, including easements, contemplated hereunder.

65. *Improvements.* The County shall appropriate \$150,000 for fiscal year 2001-2002, and beyond that time period, as necessary, to improve Marine Drive and Ocean View Drive, to construct a trail or path from the intersection of Marine Drive and Ocean View Drive (or the interconnection of the Aqua Vista and Marine Drive under paragraphs 51-52, if acquired) south to Yachats State

Park, which shall be adjacent to and along the west side of the road or set off from the paved surface of the road, as rights-of-way allow, and which shall provide direct access to all lots within Ocean Crest acquired pursuant to the terms of this Agreement. The County shall notify the public through clear signage that all lots within Ocean Crest acquired pursuant to this agreement are public lots that provide shoreline access. The \$150,000 appropriated pursuant to this paragraph shall be appropriated subject to Oregon Local Budget Law, ORS Chapter 294. The County shall make its best effort to construct and provide storm water drainage facilities, from the \$150,000 to be appropriated hereunder, on and in connection with the project, to the extent practicable within the budget.

66. *City Ownership.* By separate agreement, the County shall transfer Marine Drive and Ocean View Drive, and the trail referred to in the preceding subparagraph, to the City for transportation and pedestrian usage, and to implement the Village Circulation Plan adopted by the City.

67. The County shall pay one third of the cost for the New Manager under paragraph 57.

68. The County shall pay Carie Fox for negotiating for Lot 13.

PAIG Obligations

69. *New Manager.* The PAIGs shall pay one third of the costs of the New Manager.

Further Representations

70. *Representations.* Each signatory and each Party represents and warrants that he/she/it: (a) has not assigned, hypothecated or transferred any claim, or any rights to any such claim, in whole or in part, and whether by conveyance, contract, operation of law or otherwise that has been or could be asserted in the Vacation Proceedings or the Quiet Title Action; (b) has authority to fully bind the entity, estate, individuals or community for whom that signatory purports to sign; (c) has discussed this Agreement and its implications with counsel, who has explained same; and (d) has independently investigated the claims and defenses pertinent to the Quiet Title Action and the South Road 804 Vacation Proceedings, and the merits of this Agreement, has not relied on any information provided or statements made by any other Party or its attorneys in deciding to enter into this Agreement, and that no such representations were made. These representations and warranties are unconditional, and are material and necessary inducements to all other Parties

to enter into this Agreement, and shall survive the closing and performance of this Agreement.

71. *Integration.* With the exception of the side agreement referenced in paragraph 20, this is a fully integrated Agreement. It contains the full and final expression of the Parties relative to its subject matter.

72. *Construction.* Each Party had substantial input into this Agreement, which was negotiated among the Parties. Each Party was or had the opportunity to be represented by counsel in connection with negotiating and drafting this Agreement, and no ambiguity in it shall be construed against any Party by virtue of draftsmanship. The conjunctive includes the disjunctive, and vice versa. Titles are solely for convenience and are not aids in construction.

73. *Counterparts.* This Agreement may be executed in counterparts, and by facsimile. Each counterpart, even if signed but transmitted by facsimile, shall be deemed an original.

74. *Binding.* This Agreement is binding on, and benefits, all entities, groups, organizations and governmental units (of any type) which are referred to in paragraphs 1 through 5, and each of their subsidiaries, and each direct or remote predecessor or successor of any of the foregoing.

75. *Arbitration.* An arbitrator shall be the sole determiner of whether a material breach of the Agreement has occurred and of any other dispute relating to or arising from or under this Agreement, including, without limitation, whether any condition to this Agreement has or has not been timely and fully satisfied. Any Party may request arbitration. The Title Companies, jointly; the PAIGs, jointly and the City and County shall each appoint one representative to choose an arbitrator. The prevailing party as determined by the arbitrator shall be entitled to attorneys' fees, and the losing party as determined by the arbitrator shall be responsible for the arbitrator's fees and expenses. There shall be no appeal from the arbitrator's rulings. Unless it otherwise elects to participate, the State shall not be required to participate in, nor share the costs/expenses/fees of, the above described arbitration.

76. *Effective Date.* This agreement is dated as of the date that it is signed and dated by the last party to sign and date it.

Miscellaneous

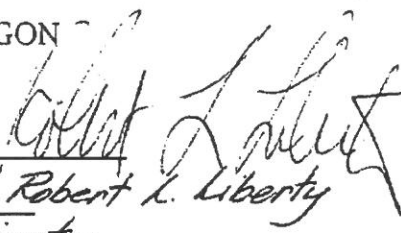
77. *Signage.* All signage erected within the Ocean Crest Subdivision shall be approved by the City and if credited, credited to the Village Circulation Plan.

78. *Stairway.* The east-west stairway or path providing beach access on lot 13 (if acquired) shall, to the extent practicable, be located with a 20'

setback from the boundary lines of the adjacent northern and southern lots, provided however, that this provision does not limit the public's right to full use of the whole of Lot 13 for open space, recreation and public access to and along the ocean shore.

SIGNATURES:

1000 FRIENDS OF OREGON

DATED: 9/12/01 By 
Robert L. Liberty

Its Executive Director

and authorized agent

OREGON SHORES CONSERVATION COALITION

DATED: _____ By _____

Its _____

and authorized agent

The Friends of the Historic 804 County Road and Hiking Trail, Inc.

DATED: _____ By _____

Its _____

and authorized agent

setback from the boundary lines of the adjacent northern and southern lots, provided however, that this provision does not limit the public's right to full use of the whole of Lot 13 for open space, recreation and public access to and along the ocean shore.

SIGNATURES:

1000 FRIENDS OF OREGON

DATED: _____ By _____

Its _____

and authorized agent

OREGON SHORES CONSERVATION COALITION

DATED: 10/19/01 By Carolanne Bauman

Its president

and authorized agent

The Friends of the Historic 804 County Road and Hiking Trail, Inc.

DATED: 10/19/2001 By Janice M. Grandstrom

Its President

and authorized agent

STATE OF OREGON

BY THE DEPARTMENT OF PARKS AND RECREATION

DATED: 9/11/01 By Michael Amier
Its Director

and authorized agent

STATE OF OREGON

BY THE ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

DATED: _____ By _____

Its _____

and authorized agent

LINCOLN COUNTY, OREGON

DATED: _____ By _____

Its _____

and authorized agent

CITY OF YACHATS

DATED: _____ By _____

Its _____

and authorized agent

STATE OF OREGON

BY THE DEPARTMENT OF PARKS AND RECREATION

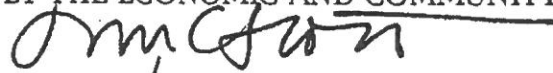
DATED: _____ By _____

Its _____

and authorized agent

STATE OF OREGON

BY THE ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT



DATED: 9/20 By _____

Its Director

and authorized agent

LINCOLN COUNTY, OREGON

DATED: _____ By _____

Its _____

and authorized agent

CITY OF YACHATS

DATED: _____ By _____

Its _____

and authorized agent

STATE OF OREGON

BY THE DEPARTMENT OF PARKS AND RECREATION

DATED: _____ By _____

Its _____

and authorized agent

STATE OF OREGON

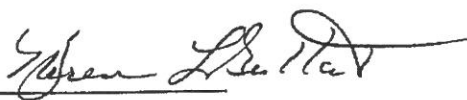
BY THE ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

DATED: _____ By _____

Its _____

and authorized agent

LINCOLN COUNTY, OREGON

DATED: 9.20.01 By 

Its Chair of the Lincoln County Board of Commissioners

and authorized agent

CITY OF YACHATS

DATED: _____ By _____

Its _____

and authorized agent

STATE OF OREGON

BY THE DEPARTMENT OF PARKS AND RECREATION

DATED: _____ By _____

Its _____

and authorized agent

STATE OF OREGON

BY THE ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

DATED: _____ By _____

Its _____

and authorized agent

LINCOLN COUNTY, OREGON

DATED: _____ By _____

Its _____

and authorized agent

CITY OF YACHATS

DATED: 9/24/01

By Arif Carin

Its MAYOR

and authorized agent

RECEIVED

OCT 26 2001

CLERK OF
CIRCUIT COURT

CHICAGO TITLE INSURANCE COMPANY OF OREGON

DATED: 10/23/01

By

[Signature]

Its

V-P & Senior Counsel

and authorized agent

TICOR TITLE INSURANCE COMPANY

DATED: 10/22/01

By

[Signature]
Scott Noble

Its

Vice President and Senior Claims Counsel

and authorized agent

STEWART TITLE INSURANCE GUARANTY COMPANY

DATED: _____

By _____

Its _____

and authorized agent

FIRST AMERICAN TITLE INSURANCE COMPANY

DATED: _____

By _____

Its _____

and authorized agent

CHICAGO TITLE INSURANCE COMPANY OF OREGON

DATED: _____ By _____
Its _____
and authorized agent

TICOR TITLE INSURANCE COMPANY

DATED: _____ By _____
Its _____
and authorized agent

Karen L. Storlie
STEWART TITLE INSURANCE GUARANTY COMPANY

DATED: 10/25/01 By Karen L. Storlie as
Its Vice President and National Claims Counsel
and authorized agent

FIRST AMERICAN TITLE INSURANCE COMPANY

DATED: _____ By _____
Its _____
and authorized agent

CHICAGO TITLE INSURANCE COMPANY OF OREGON

DATED: _____ By _____

Its _____

and authorized agent

TICOR TITLE INSURANCE COMPANY

DATED: _____ By _____

Its _____

and authorized agent

STEWART TITLE INSURANCE GUARANTY COMPANY

DATED: _____ By _____

Its _____

and authorized agent

FIRST AMERICAN TITLE INSURANCE COMPANY

DATED: 9/19/01 By Don McAlney

Its Vice President

and authorized agent

TRANSNATION TITLE INSURANCE COMPANY

DATED: 10/02/01 By William H Reetz
Its VICE PRESIDENT + CLAIM CENTER MANAGER
SEATTLE, WA.

And authorized agent

Exhibit A Description of Area to be Vacated 804 South:

A portion of County Road 804 as described in Lincoln County Book of Road Plats, BOOK 1, PAGE 206, and located in Sections 26 and 27, Township 14 South, Range 12 West, Willamette Meridian, and being more particularly described as follows:

Beginning at the southerly terminus of that portion of County Road 804 vacated by Commissioners Order dated July 16, 1974, and recorded in Lincoln County Book of Deeds and Mortgages, BOOK 50, PAGE 1231, said terminus being on the subdivision boundary line between "Aqua Vista," as recorded in Lincoln County Book of Plats, BOOK 9, PAGE 21, and "Ocean Crest," as recorded in Lincoln County Book of Plats, BOOK 8, PAGE 66, thence southerly and easterly to the intersection of County Road 804 and the easternmost corner of that property described in the Warranty Deed recorded February 2, 1994, in Lincoln County Book of Deeds and Mortgages, BOOK 276, PAGE 0076, excepting the following:

(1) That portion of County Road 804 right-of-way which crosses Lot 26, Block 4, "Ocean Crest," as recorded in Lincoln County Book of Plats, BOOK 8 PAGE 66;

(2) That portion of County Road 804 right-of-way which lies northerly of the South right-of-way line of "1st Street County Road" as depicted on the "Plat of Yachats," as recorded in the Lincoln County Book of Plats, BOOK 6, PAGE 25.

Exhibit B Waldport-Starr Creek Portion of County Road 804

Beginning at the head of Broadway on the south side of Alsea Bay in Section 18, Township 13 South, Range 11 West, Willamette Meridian, as described in the establishment of the Waldport and Yahutes Road in 1890.

Thence continuing in a southwesterly and southerly direction to the northerly end of the county road as shown on County Survey # 11,905 in Section 23, Township 14 South, Range 12 West, Willamette Meridian.

Exhibit C Findings and Conclusions To Be Included In Vacation Order

Findings:

Lincoln County, the City of Yachats, the State of Oregon, Friends of Historic 804 County Road and Hiking Trail, Inc. Oregon Shores Conservation Coalition, and 1000 Friends of Oregon entered into a Settlement Agreement dated _____, which by this reference is incorporated herein as if fully set forth and which is attached to this Order as Exhibit _____. The agreement contains the sole description of the unique facts and circumstances related to this vacation request and upon which this vacation is based. It also sets forth replacement access options.

Conclusions:

This vacation order is made based on the unique facts and circumstances particular to South Road 804, and the availability of replacement access pursuant to the Settlement Agreement. The Settlement Agreement supports the decision. This vacation is not legal or factual precedent for other decisions by Lincoln County concerning public roads or access. The vacation is not intended to imply or admit that South 804 was or was not ever legally established, has or has not been previously vacated, does or does not exist and does or does not provide any rights of access, enjoyment, use, recreation, or otherwise to any members of the public. It is intended to bring certainty and finality to the status of the Road through the affected properties.

All public rights—if any—in South Road 804 as legally described herein are fully, forever, and unconditionally vacated, including, without limitation, any and all rights based on prescription, dedication, conveyance, implication, necessity, or the “public trust” or related doctrines.

Exhibit D Quiet Title Decree

Jonathan M. Radmacher
MCEWEN, GISVOLD, RANKIN,
CARTER & STREINZ, LLP
1600 Standard Plaza
1100 S.W. Sixth Avenue
Portland, OR 97204
(503) 226-7321
Attorneys for Plaintiffs

IN THE CIRCUIT COURT
FOR LINCOLN COUNTY, OREGON

_____, et al.,

Plaintiffs,

v.

LINCOLN COUNTY, et al.,

Defendants.

NO. 001438

JUDGMENT AND DECREE
QUIETING TITLE

All Parties have agreed to the entry of the judgment set forth below. Given the unique circumstances of this case, the settlement that the Parties have reached, and the final Vacation Order that has resulted from that Settlement, defendants and intervenors have not objected to the entry of this Order. That settlement requires, among other things, that the City, County and intervenors be provided with valuable and unique access that would otherwise not be available, in order to replace and maintain public access to the coastal shoreline at Yachats. This Court has reviewed the settlement agreement, and finds it reasonable and appropriate in all respects. Therefore, and based on the foregoing, it is, hereby,

ORDERED, ADJUDGED AND DECREED, that:

1. Title is hereby fully, finally and unconditionally quieted in each plaintiff and its direct and remote successors in interest, to the entirety of that parcel of real estate which *Exhibit A* shows is owned by that plaintiff, as against each and every defendant, all affiliates or members of any defendant, and any and all direct and remote successors or assigns of any such defendant,

affiliate or member, and against all other individuals or entities, whether or not parties to this case.

2. Without limiting the generality of the foregoing, all rights or claims to Lincoln County Road 804 (South) are fully, finally and forever extinguished as to the record owners and record mortgages or trust deed beneficiaries of or to the properties described on *Exhibit A* insofar as that Road actually or purportedly touches or crosses any of those properties. The actual or putative rights and interests relating to South Road 804 that are extinguished by this judgment include, without limitation, rights of access, rights to traverse, prescriptive rights of any type or nature, and/or rights based on or relating to the "public trust" or any related doctrine.

3. This is a final judgment; there is no just reason for delay. However, pursuant to ORCP 71 B(1)(e), this final judgment will be set aside upon the motion of any party to this action if the settlement agreement pursuant to which it is entered is terminated pursuant to ¶ 42 of that Agreement.

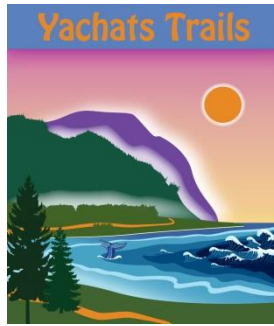
Dated: _____, 2001.

Judge

Presented by:

McEWEN, GISVOLD, RANKIN,
CARTER & STREINZ, LLP

By _____
Jonathan M. Radmacher
Attorneys for Plaintiffs



BOARDWALK RECOMMENDATIONS By YACHATS TRAILS COMMITTEE

Revision - January 26, 2021

DESCRIPTION:

Often referred to as the “Boardwalk”, the subject is that section of the Oregon Coast Trail along south side of Ocean View Drive, between the pavement’s edge and the Yachats River, a short distance west of Ocean View Drive’s intersection with Highway 101. There is no appreciable shoulder on the south side of the roadway, and the existing grades fall-off steeply to the River’s edge below. Ocean View Drive in that location is a narrow road, one lane in each direction, that experiences relatively heavy traffic as it serves as the entrance to Oregon State Parks’ “Yachats State Recreation Area” a short distance to the west, the Post Office, some businesses, and some residential areas. That section of the roadway is often utilized by parked trucks servicing nearby restaurants and businesses. The location offers great views of the Yachats River and beyond. See attached “Exhibit A – Aerial”.

PURPOSE:

In addition to providing a pedestrian way for walkers and hikers, that section provides a connection for the Oregon Coast Trail between the State Park to the west and Highway 101 to the east. The Oregon State Legislature has prioritized the completion of the Oregon Coast Trail.

CONCERNS:

The primary concern in that section is **safety**. Because there is no shoulder, pedestrians and hikers are forced to walk within the street. Often, there are groups of pedestrians, walking side-by-side, parents with strollers, people walking their dogs, and the elderly. The mixing of vehicles and pedestrians presents a very dangerous condition. A secondary concern is that, due to these conditions, the safety and continuity of the Oregon Coast Trail is broken in this location.

DESIRED CHARACTERISTICS:

General: Separation of pedestrians and vehicles is of primary concern. If possible with respect to drainage requirements, a curb or other barrier between the improvements and the road's edge would be imperative. More substantial barriers may be necessary, and would be at the discretion of the City. Such barrier would be needed to separate pedestrians from vehicles, and to prevent vehicles from driving onto the walkway / decking structure. Also at the discretion of the designer, it may be determined that the walkway / deck may be elevated slightly above the roadway, with appropriate means to protect it from vehicular traffic.

Surface: The surface of the walkway / decking should be non-slip, especially considering the rainy environment at the Coast. Options would include metal grating, composite decking boards, non-slip treated planking, or similar material. The structure's walking surface should be as level as possible, without cross-slope, and free from steps or other changes in level. Examples of these options are included in the following photos.



Beaver Creek, Oregon



Newport Docks, Oregon

Width and Layout: The walkway / decking should be not less than four and one-half (4.5) feet wide and preferably 5 ft., clear dimension, to allow pedestrians and parents with children or strollers to comfortably walk side-by-side. The length of the walkway / decking should be provided with surfaces and interim widened areas to act as easy pedestrian passing locations. If of an appropriate size, these widened areas could also serve as stopping places for users to overlook the Yachats River and the mountains beyond, perhaps with seating and interpretive signage.



Old Town Park, Florence, Oregon

Length: Starting at the east end, the beginning point of the walkway / decking should occur at the first level area of sufficient width to accommodate the east edge of the structure and its transition to the existing pavement surface. This may occur approximately twenty-four (24) feet east of the existing power pole that serviced the old Landmark. There may be some advantage, at the City's discretion, to place the beginning point even farther to the east. From that easternmost beginning point, a 57 meter (approximately 187 feet) walkway / deck would place the westernmost end of the structure at approximately four and one-half (4.5) feet west of the existing "No Parking" sign. There would be some advantages in design and construction for extending the westernmost end of the structure even farther west. All stated dimensions are approximate and should be verified by the designer.

Protective Railings: The southern edge of the walkway / decking should be provided with a safety railing conforming to all applicable codes, laws and ordinances. It would be preferable if the railings could be “open”, utilizing tensioned stainless steel cable or similar materials, to preserve views. Cables could be supported by either wood or weather-resistant metal posts. Alternatives could be appropriately spaced horizontal weather resistant metal strips or channels. Examples of these options are included in the following photos.



Old Town Park – Florence, Oregon



Newport Docks, Oregon

Obstacles: There are existing obstacles in the proposed walkway / decking location: a power pole, some traffic control signs, a communications pedestal, and related items that may need to be removed or relocated. Furthermore, further to the west there is an existing power pole serving the Underground Restaurant (with lines continuing to the aforementioned Landmark pole), that might be in the way of trail improvements and may need to be relocated.

Drainage:

Drainage would have to be controlled so as not to flow across the walkway / decking, and to prevent wash-out of the riverbank below the structure. There is surface flow across the street toward the south that will need to be dealt with. Care should be taken to prevent trail surface washout of the trails at each end of the walkway / deck.

It should also be noted that there is already an erosion problem that is threatening to undermine the integrity of the road sub surface and shoulder. The boardwalk – deck will need to be put in place attending to this existing problem, with a means to access that surface in future if repairs are needed,

Measure-Up Drawing: Attached is a measure up indicating approximate locations for the existing conditions. These dimensions are intended to be used for purposes of this narrative only, and must be confirmed by the designer. See attached “Exhibit B – Measure-Up”.

ANTICIPATED COST:

Discussion of funding methods will be addressed in other correspondence.

For purposes of preliminary cost estimates, not having preliminary designs to utilize, construction costs can only relate what would be found to be costs for other similar projects in other communities. There are many influences on final cost of such walkway / decking; final configuration, structural requirements that are unknown at this time, design and engineering fees and costs, site determinants and conditions, etc.

DESIGN PROCESS:

Subject to the City's legal procurement requirements, it is expected that an engineer / designer would be hired to first provide preliminary designs and layouts, describe proposed materials, and provide preliminary cost estimates. The Yachats Trails Committee should be consulted, particularly during the design phases, as the Committee will be tasked with its maintenance upon completion. The preliminary designs would eventually be completed as formal construction documents outlining all construction requirements. Construction would then be procured in a manner as required by City procurement requirements and processes.

SUMMARY:

Whereas the Boardwalk project has sometimes been referred to as the “57 meter” project, this length reference may, and should, be extended as noted above to improve safety access and maintenance aspects.

This document and the recommendations herein are intended to provide information to the City of Yachats, and to provide input to the designer. It should not be used in conjunction with soliciting services and fee quotations from designers or contractors, as it does not contain a complete or detailed scope of work. No efforts have been made to determine the applicability and effect of applicable governmental laws, codes, ordinances, rules, or regulations, to this project – which shall be the responsibility of the City’s designer.

Respectfully Submitted,

Yachats Trails Committee leaders:

Joanne Kittel
Walter Orchard
Loren Dickinson
Bob Langley
Jan Brown

ATTACHMENT A

BOARDWALK RECOMMENDATIONS

Aerial Photo from Google Earth, showing the Boardwalk and general vicinity



ATTACHMENT B

BOARDWALK RECOMMENDATIONS

Concept Plan, Boardwalk and general vicinity



The Parks and Commons Commission has requested that the City Council approve the process of soliciting engineering and design bids for the Ocean View Boardwalk project using funds (\$50,000) already budgeted for this purpose with the eventual goal of soliciting a vendor for this project (Motion by unanimous vote at meeting on 2/2/2021).

We suggest that the City Council can move this project forward as follows:

1. Define the scope and scale of the project.
2. Provide direction on methods of informing the public and gaining its support.
3. Direct staff to move forward with developing a design concept.
4. Direct staff to solicit bids for engineering and construction.

The following attachments provide an overview of the project:

- Narrative-Boardwalk Project-01-26-2021
- Narrative-Boardwalk-ATTACHMENT A-01-26-2021
- Narrative-Boardwalk-ATTACHMENT B-01-26-2021
- Kevin Shanley – curriculum vitae

BUT, they leave an important and pivotal question unanswered. While there is no doubt that something has to be done to improve safety along this stretch of road, should the boardwalk be designed as:

1. A rather utilitarian STRUCTURE with the sole purpose of getting people from point A to point B in a safe manner?

OR

2. An amenity – not just a structure on which people walk but also a PLACE in which they feel encouraged to congregate, visit with each other, linger, rest, photograph, etc?

To help the Council choose between option 1 and option 2, the nine attached graphics include examples of boardwalks in other places - progressing from simple and utilitarian to more attractive and inviting - as well as a concept drawing of what a boardwalk along this stretch of Ocean View Drive might look like.

This project is well-aligned with recently-developed Council goals. Especially:

- Improve timeliness, relevance, quality, and effectiveness of the City service delivery.

This project provides an excellent opportunity for the Council to demonstrate that the City can oversee the creation of a relevant community amenity of high quality and that it can do so in a timely and effective manner.

- Strengthen relationships with the community

The close alignment of this project with the other four Council goals suggests that its successful completion will strengthen ties between the Council and the community.

- Prioritize and demonstrate environmental responsibility in actions and decisions.

An archaeological study has already been completed. DEQ, Army Corps of engineers, and other relevant agencies will likely be involved in the permitting processes. Improving pedestrian access will encourage more people to walk rather than drive.

- Provide a safe environment.

The safety of residents and visitors alike will be greatly enhanced by making this heavily-used stretch of road much safer to walk along.

- Demonstrate financial responsibility.

Exploring the funding options listed below, rather than funding this project out of the yearly operating budget, will demonstrate financial responsibility.

Cost is a major consideration in any project, especially one of this size. The existence of several potential funding sources makes this project feasible:

- City funds – in addition to the \$50K already allocated
- 804 Mitigation funds –
- Visitor Amenity Funds – A project like this is clearly a visitor amenity particularly if it is designed to be a place rather than just a structure.
- Grants – Granting agencies currently look quite favorably on projects that are part of the OCT
- Fundraising efforts – possible placement of plaques on boardwalk for donors – local stores might ask patrons to round up purchases to next highest dollar.
- Donations – Kevin Shanley, an internationally-known landscape designer has volunteered to help with this project (see attached information).

Mr. Shanley states, “I would be happy to volunteer to create fairly detailed conceptual drawings for the connection that can be used to guide/direct the consultants to produce what the community wants. And I would be happy advising the selected consultant as they prepare their detailed drawings and advising during construction.”

Further donations are possible in the form of volunteer labor and assistance from the Parks and Commons Commission and the Yachats Trails Committee.



Kevin Shanley, FASLA - Hon. AIA

Principal & Board Member, Past President & CEO, Houston, Texas

Since retiring: Board President of Friends of Howard Buford Park and Mt. Pisgah, Springfield, OR. Among the volunteer work he has done, Kevin Shanley recently created a 3-phase restoration plan for Eagle Rock County Park that was destroyed by the Holiday fire and has completed a preliminary design plan for a pedestrian / bike bridge connecting two parks across the Willamette River.

Philosophy

“When I consider taking on a project, I ask myself: Does this project have the potential to transform people’s daily experience of the world? Can it move them the way a good book or a piece of melody can?”

Education

Studies in Landscape Architecture, Harvard University Graduate School of Design, 1977-1978; Studies in Philosophy, University of Santa Clara, 1969-1972

Professional Affiliations

Member, American Society of Landscape Architects Honorary; Member, American Institute of Architects; Past Chairman of the Board, Bayou Preservation Association; Past Advisory Board Member Buffalo Bayou Partnership, White Oak Bayou Association, Willow Waterhole Greenspace Conservancy

Publications

Sustainability Today Means Knowing the Lay of the Land, Houston Business Journal, May, 2009

Houston’s Buffalo Bayou Promenade: A Park with a Twist and a Turn, NRPA Parks & Rec Magazine, May 2009

On the Asian Waterfront, Urban Land, May 2006

Rebuilding the Gulf Coast (Rebuilding New Orleans), Urban Land, January 2006

A Damage Control, Urban Land, October 2001

Some of Kevin Shanley’s 62 Awards

Urban Land Institute International Open Space Award – 1000 Lantern Lake 2015

ASLA Award of Excellence, General Design - Buffalo Bayou Promenade, 2009

ASLA Honor Award, Analysis and Planning - Brays Bayou Greenway Framework, 2009

ASLA Texas Chapter Award of Excellence, Planning & Analysis, Lake Houston Wilderness Park, 2009

Municipal Art Commission Award of Distinguished Achievement – Allen Center, 1979

Examples of Kevin Shanley's Project Experience

Allen's Landing. Houston, Texas. SWA provided a master plan and full landscape architectural services for the restoration of Allen's Landing. Site improvements include a paved embarcadero with benches, bollards, and special paving inserts that list the commodities that were traded there.

Arthur Storey Park Detention Basins. Houston, Texas. Harris County Flood Control District. SWA prepared conceptual studies for the regional detention basin complex and detailed construction documents for wetlands and reforestation on this 250-acre parcel of land.

Arthur Storey Park Planting. Houston, Texas. Harris County Flood Control District. SWA provided landscape consulting to soften the edges of the basin with plant material and to create a maintainable wetland.

Baytown Nature Center. Baytown, Texas. SWA Group and Crouch Environmental Services provided master planning services for the Baytown Nature Center.

Brays Bayou Federal Recreation Plan. Houston, Texas. Harris County Flood Control District. This master planning study within Houston examines opportunities for active and passive recreation along a centrally located waterway known as Bray's Bayou.

Brays Bayou Park Framework. Houston, Texas. Houston Parks Board. University of Houston. Stakeholder charrette collaboration and master-planning for 32-acre park along Brays Bayou in Houston, Texas. A framework plan was created for the incremental development of the project by multiple property owners that would yield a coordinated program of improvements and activities for a multiplicity of users: bike commuters, students, neighbors, kayakers, and picnickers.

Brays Bayou Landscape Improvements. Houston, Texas. Harris County Flood Control District. SWA provided master planning services for a 30-mile long corridor of the bayou to include hike and bike pathways, lighting, planting, and bridge improvements.

Brazos River Park. Sugar Land, Texas. SWA prepared a master plan based on organizing the park into 'Regional' and 'Local' uses to join park users with similar purposes.

Broadway to Mason Trail. Houston, Texas. Houston Parks Board. Harris County Flood Control District. First phase of trail construction for the Brays Bayou Greenway Framework Plan.

Brownwood Marsh Restoration. Baytown, Texas. Preparation of a master plan, land planning and landscape architectural services for this 60-acre wetlands parcel.

Buddha Hand Resort Master Plan. Nanjing, China. SWA's design for this mixed-use resort site includes a platinum super five-star hotel, conference center, research center, healing and health center, cultural activity center and single-family houses.

