CITY COUNCIL MEETING
September 18, 2018 – Agenda
Mt. Si Senior Center, 411 Main Ave. S., North Bend, Washington

7:00 P.M. – CALL TO ORDER, ROLL CALL, FLAG SALUTE

CONSENT AGENDA:

1) Minutes City Council Meetings of July 17, 2018 & August 21, 2018, Special Workstudy of August 21, 2018

2) Payroll August 20, 2018 – 27812 through 27817, in the amount of $203,776.89
September 5, 2018 – 27818 through 27823, in the amount of $260,676.91

3) Checks September 4, 2018 – 66513 through 66587, in the amount of $1,715,750.90
September 18, 2018 – 66588 through 66646, in the amount of $401,833.03

4) AB18-108 Ordinance – Amending NBMC 5.04 RE Model Business Licensing Ms. Masko
5) AB18-109 Motion – Authorizing Contract with Fury for SW 10th Street Culvert Maintenance Mr. Rigos
6) AB18-110 Motion – Authorizing Contract with USGS RE Masonry Pool Project Costs Mr. Rigos
7) AB18-111 Ordinance – Adopting Public Works Standards Mr. Rigos

CITIZEN’S COMMENTS: (Please restrict comments to 3 minutes)

ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:

8) Presentation Snoqualmie Valley Community Network Ms. Smith, Executive Director
9) Presentation Girl Scout Troup 43660 Silver Award Ms. Cowan
10) Presentation Parks Commission Ms. Bilanko, Planning Commission Chair
11) Presentation VIC Update & Block Party Recap Ms. Keveren

COMMISSION AND COMMITTEE REPORTS:

Planning Commission Parks Commission
Community & Economic Development – Councilmember Kostanich Finance & Administration – Councilmember Rosen
Public Health & Safety – Councilmember Loudenback Transportation & Public Works – Councilmember Garcia
Mayor Pro Tem – Councilmember Gothelf
Eastside Fire & Rescue Board – Councilmember Gothelf

INTRODUCTIONS:

12) AB18-112 Public Hearing, Ordinance – Amending NBMC 20.12 Concurrency Mr. Rigos
13) AB18-113 Ordinance – Amending Zoning Map Mr. Reynolds
14) AB18-114 Motion – Authorizing ILA with Si View MPD RE Cascade Golf Course Ms. Lindell
15) AB18-115 Motion – Authorizing Amendment to Si View MPD ILA for Torguson Park Ms. Hyde
16) AB18-116 Ordinance – Amending NBMC 10.10 RE Truck Routes Mr. Rigos

MAYOR, COUNCIL & ADMINISTRATOR CONCERNS AND INITIATIVES: (Business and general information presented that may be deliberated upon by the Council. Formal action may be deferred until a subsequent meeting; immediate action may be taken upon a vote of a majority of all members of the Council.)

ADJOURNMENT:

Americans With Disabilities Act - Reasonable Accommodations Provided Upon Request (425.888.7627)
CALL TO ORDER, ROLL CALL:

Mayor Hearing called the regular meeting to order at 7:00 p.m.

Councilmembers Present: Elwood, Garcia, Gothelf, Kostanich, Loudenback, Rosen and Volken.

Mayor Hearing announced an Executive Session to discuss property acquisition pursuant to RCW 42.30.110(1)(b) was added at the end of tonight’s agenda.

Presentation – Festival at Mt Si

Festival at Mt Si Committee President Jill Massengill reported on the upcoming Festival at Mt Si activities scheduled for August 10, 11, and 12th. She thanked the Mayor and Councilmembers for North Bend’s contribution to the Festival in the form of much needed City Public Works employees, Police and Fire support services during the weekend of the event.

CONSENT AGENDA:

Minutes – Council Meeting of June 19, 2018
Payroll – June 20, 2018 – 27785 through 27790, in the amount of $206,491.02
Payroll – July 5, 2018 – 27791 through 27798, in the amount of $268,288.72
Checks – July 3, 2018 – 66208 through 66304, in the amount of $1,321,296.92
Checks – July 17, 2018 – 66305 through 66366, in the amount of $242,853.36

AB18-086 – Ordinance 1662 2nd Quarter Budget Adjustment
AB18-087 – Motion Authorizing 2nd Amendment to Blueline Work Order for NE 12 Street Project
AB18-088 – Resolution 1837 Granting Final Plat Approval for Ridge at Tannerwood
AB18-089 – Resolution 1838 Authorizing Property Purchases for Roundabout

Councilmember Gothelf MOVED, seconded by Councilmember Elwood to approve the consent agenda as presented. The motion PASSED 7-0.

CITIZEN’S COMMENTS:

Liz Davis, 225 Taylor Ave. S, requested the dividers on North Bend Way between Bendigo Boulevard (SR 202) and Ballarat be removed to facilitate quicker and easier travel for emergency vehicles.
ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:

Proclamation – David Battey Appreciation Day

Mayor Hearing read a proclamation declaring July 17, 2018 as David Battey Appreciation Day in the City of North Bend. Mr. Battey was present to accept the proclamation.

COMMISSION AND COMMITTEE REPORTS:

Planning Commission
A report of the July 12th meeting was provided.

Parks Commission
A report of the June 27th meeting was provided.

Economic Development Commission – Councilmember Volken, Chair
A report of the June 26th meeting was provided.

Community & Economic Development Committee – Councilmember Kostanich, Chair
A report of the July 17th meeting was provided.

Finance & Administration Committee – Councilmember Rosen, Chair
A report of the July 10th meeting was provided.

Public Health & Safety Committee – Councilmember Loudenback, Chair
The July 10th meeting was cancelled.

Transportation & Public Works Committee – Councilmember Loudenback, Interim Chair
A report of the July 10th meeting was provided.

Council Workstudy – Mayor Pro Tem Gothelf
The June 24th Council Workstudy was cancelled.

Eastside Fire & Rescue Board Meeting – Councilmember Gothelf
A report of the July 12th meeting was provided.

INTRODUCTIONS:

AB18-090 – Ordinance 1663 Amending NBMC RE Significant Trees & Taxes, Rates & Fees Schedule

Senior Planner Burrell provided the staff report.

Councilmember Kostanich MOVED, seconded by Councilmember Rosen to approve AB18-090, an ordinance amending NBMC Sections 14.05, 18.18, 18.50 & 19.10 regarding
significant trees and amending the Taxes, Rates & Fees Schedule, as a first and final reading.

Councilmember Garcia MOVED, seconded by Councilmember Gothelf to amend NBMC 19.10.094 (Tree Replacement Fee) by adjusting the Per 1 tree credit in lieu replacement fee from $1,000 to $2,000 and the Per 1.5 tree credit (exceptional tree) in lieu replacement fee per tree from $5,000 to $10,000. The motion PASSED 7-0.

The main motion then PASSED AS AMENDED 7-0.

**AB18-091 – Motion Authorizing Grant Application Submittal for River Access Improvements**

Economic Development Manager & Planner Hyde provided the staff report.

Councilmember Kostanich MOVED, seconded by Councilmember Garcia to approve AB18-091, a motion authorizing the Mayor to sign as a secondary applicant on a WWRP-Water grant application to improve river access to the Middle Fork of the Snoqualmie River. The motion PASSED 7-0.

**AB18-092 – Resolution 1839 Awarding NE 12th Street Project to Fury Site Works**

Public Works Director Rigos provided the staff report.

Councilmember Loudenback MOVED, seconded by Councilmember Elwood to approve AB18-092, a resolution awarding the NE 12th Street Improvements Project to Fury Site Works, Inc., in an amount not to exceed $1,458,520.74. The motion PASSED 7-0.

**AB18-093 – Motion Authorizing Work Order with Golder for Water Support**

City Administrator Lindell provided the staff report.

The following individual commented on the agenda item:

**Steve Sieker, 512 Ballarat Ave. N**

Councilmember Loudenback MOVED, seconded by Councilmember Gothelf to approve AB18-093, authorizing a Work Order with Golder Associates Inc. to provide Water Rights Support, in a form and content acceptable to the City Attorney, in an amount not to exceed $133,280.00. The motion PASSED 7-0.
MAYOR, COUNCIL, AND ADMINISTRATOR CONCERNS AND INITIATIVES:

Councilmember Garcia encouraged all to conserve water during the current dry spell. He remarked on the neighborly feeling that was a hallmark of North Bend’s rural character and extended a welcome to new members of the community and encouraged fellow citizens to do likewise.

Councilmember Kostanich noted the Snoqualmie Watershed Forum would be holding their July 18, 2018 meeting at Meadowbrook Farm Interpretive Center at 4:30 p.m. He encouraged fellow Councilmembers to attend the meeting which featured a tour of the South Fork Levee. Additionally, he reminded everyone of the Savor Snoqualmie Valley organization that was a cooperative effort featuring local businesses, governmental entities, and community leaders working to promote Snoqualmie Valley businesses and farms, arts, heritage and outdoor recreation.

Councilmember Volken mentioned the second annual King & Queen of Mt Si race would be held on Saturday, August 25, 2018.

Councilmember Elwood thanked Mr. Battey for all of his efforts on behalf of the community and wished him the best in his future endeavors.

Councilmember Gothelf announced Councilmember Garcia would serve as Chair of the Transportation & Public Works Council Committee and as a member of the Finance & Administration Council Committee. He also noted Councilmember Garcia would serve as an alternate liaison for the Eastside Fire & Rescue Board of Directors.

Mayor Hearing spoke regarding the following items:

- July 21st & 22nd Downtown Block Party & Legends Car Show
- Main Ave. N & Mt. Si Blvd. Paving Projects
- NE 12th Street Reconstruction Project
- July 25th Ballot Drop Box Ribbon Cutting Event at North Bend Library
- Cancellation of July 24th Workstudy and August 7th City Council Meeting

EXECUTIVE SESSION:

Mayor Hearing recessed the regular meeting for an Executive Session at 8:33 p.m. to discuss property acquisition, pursuant to RCW 42.30.110(1)(b). No action was anticipated as a result of the Executive Session, which was expected to last thirty minutes and videotaping of the meeting ceased.

The regular meeting reconvened at 9:00 p.m.
ADJOURNMENT:

Councilmember Gothelf MoveD to adjourn, seconded by Councilmember Elwood. The motion PASSED 7-0.

The meeting adjourned at 9:00 p.m.

ATTEST:

Kenneth G. Hearing, Mayor

Susie Oppedal, City Clerk
CALL TO ORDER, ROLL CALL:

Mayor Hearing called the regular meeting to order at 7:00 p.m.

Councilmembers Present: Elwood, Garcia, Gothelf, Kostanich, Rosen and Volken. Councilmember Loudenback was excused.

Councilmember Gothelf MOVED, seconded by Councilmember Elwood to amend the agenda to include the following items for consideration at the end of the night’s meeting: 1.) Sale of property to Ken White and 2.) Acquisition of Creekside property. The motion PASSED 6-0.

CONSENT AGENDA:

Minutes – Special Council Meeting of July 10, 2018
Payroll – July 20, 2018 – 27799 through 27805, in the amount of $211,940.40
August 3, 2018 – 27806 through 27811, in the amount of $260,129.22
Checks – August 7, 2018 – 66367 through 66457, in the amount of $1,260,344.37
August 21, 2018 – 66458 through 66512, in the amount of $271,125.23
AB18-094 – Resolution 1840 Accepting Downtown Plaza Project as Complete
AB18-095 – Resolution 1841 Rejecting Bids for WWTP Improvement Project
AB18-096 – Resolution 1842 Dedicating ROW for Bendigo Right Turn Lane Project
AB18-097 – Motion Approving 2019 – 2020 Budget Calendar
AB18-098 – Resolution 1843 Authorizing DEA with Toll Brothers for Tanner Phase 1 & 2
AB18-099 – Motion Authorizing Work Order Amendment with G&O for PW Standards
AB18-100 – Motion Authorizing Contract with G&O RE Meadowbrook Sewer ULiD
AB18-101 – Motion Authorizing Agreement with Toll Brothers for Tanner Road Realignment

Councilmember Gothelf MOVED, seconded by Councilmember Garcia to approve the consent agenda as presented. The motion PASSED 6-0.

CITIZEN’S COMMENTS:

Dave Olson, 440 Main Ave. S, provided a report on the recent Kiwanis fireworks fundraiser sales and announced Night on a Dark Trail was looking for volunteers.

Elizabeth Davis, 225 Taylor Ave. S, mentioned her comments at the last meeting regarding the median strip downtown and volunteered to help with the issue. Additionally, she commented on the lack of truck parking downtown, particularly in
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commercial areas.

**Michael Thomas**, 1231 LaForest Drive SE, mentioned he would have preferred that AB18-093 (Motion Authorizing Work Order with Golder for Water Rights Support) be scheduled at a time that wouldn’t have conflicted with a Sallal Water Association meeting. He expressed concerns about the accuracy of Mt Si Springs data, sufficiency of data, environmental impact of VFD pumps and excessive water takes.

**Paula Lodahl**, 435 SE Maple Drive, encouraged all to support fundraising efforts of the Snoqualmie Valley Youth Activity Center and the Mt Si Senior Center. She noted the Senior Center would be hosting a SOS (Save our Seniors) dinner and auction on Saturday, September 15th at the Snoqualmie Casino Ballroom.

**Wende Miller**, 6814 Denny Peak Drive SE, Snoqualmie, property owner of proposed athletic complex to be located on Bendigo Boulevard, requested the City, as a property owner of several large tracts of land, participate in the proposed Meadowbrook Utility Local Improvement District on the west end of town.

**Sherwood Korssjoen**, 13710 461st Place SE, requested information about the condition, capacity, future planned updates and associated costs of the City’s Wastewater Treatment Plant.

**Joe Eddings**, 43438 SE North Bend Way, expressed concern about single-family and multi-family use being removed from the Neighborhood Business zone and addressed the lack of affordable housing in the area.

City Administrator Lindell noted Mr. Edding’s comments were related to the Public Hearing later in the evening on an ordinance amending NBMC 18.10.030, .040 & .050 and would be considered a part of the public hearing record for that agenda item.

**Camille Bodey**, 13529 433rd Place SE, commented she was a proponent of affordable housing and encouraged the City to pursue the issue.

Ms. Lindell addressed incorrect information distributed by flyer in the community related to a proposed ban on affordable housing developments.

**ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:**

**AB18-102 – Appointment to Economic Development Commission**

Audio: 33:02

Mayor Hearing recommended the appointment of Craig Glazier to Position No. 2 on the Economic Development Commission.

Councilmember Gothelf **MOVED**, seconded by Councilmember Garcia to approve AB18-102, confirming the appointment of Craig Glazier to Position #2 on the Business &
Economic Development Commission, term expiring December 31, 2019. The motion PASSED 6-0.

**AB18-103 – Appointment to Parks Commission – Youth Position**  
Audio: 37:38

Mayor Hearing recommended the appointment of Kassi Winter to Youth Position No. 5 on the Parks Commission.

Councilmember Gothelf MOVED, seconded by Councilmember Elwood to approve AB18-103, confirming the appointment of Kassi Winter to Youth Member Position No. 5 on the Parks Commission, term expiring August 31, 2019. The motion PASSED 6-0.

Mayor Hearing announced the VIC Update and Block Party Recap would be presented at the September 18, 2018 City Council meeting.

**Presentation – New City Website**  
Audio: 40:52

Communications Manager Green provided an overview of the newly redesigned City website which featured easier accessibility and an enhanced mobile platform.

**COMMISSION AND COMMITTEE REPORTS:**

**Planning Commission**  
A report of the August 9th meeting was provided.

**Parks Commission**  
No report. The July 25th meeting was cancelled.

**Economic Development Commission** – Councilmember Volken, Chair  
The July 24th meeting was cancelled. Councilmember Volken provided an update on individual activities.

**Community & Economic Development Committee** – Councilmember Kostanich, Chair  
A report of the August 21st meeting was provided.

**Finance & Administration Committee** – Councilmember Rosen, Chair  
No report. The August 7th meeting was cancelled.

**Public Health & Safety Committee** – Councilmember Loudenback, Chair  
No report. The August 14th meeting was cancelled.

**Transportation & Public Works Committee** – Councilmember Garcia, Chair  
A report of the August 8th meeting was provided.

**Council Workstudy** – Mayor Pro Tem Gothelf
No report. The July 24th meeting was cancelled.

**Eastside Fire & Rescue Board Meeting** – Councilmember Gothelf
No report of board meeting. An update of EFR activities was provided.

**INTRODUCTIONS:**

**AB18-104 – Public Hearing, Ordinance 1664 Amending NBMC 18.10.030, 040 & 050**

Senior Planner Burrell provided the staff report.

**Mayor Hearing opened the Public Hearing on an Ordinance Amending NBMC 18.10.030, 040 & 050 at 8:08 p.m.**

The following individuals commented on the agenda item:

- **Elizabeth Davis,** 225 Taylor Ave. S
- **Lynelle Dennis,** 1350 E North Bend Way
- **Leslie Moon,** 42828 SE 176th Street
- **Michael Johnson,** 1350 E North Bend Way
- **Michael Thomas,** 1231 LaForest Drive SE
- **Dan Olah,** 46721 SE Mt Si Road
- **Wende Miller,** 6814 Denny Peak Drive SE, Snoqualmie
- **Joe Eddings,** 43438 SE North Bend Way

**Mayor Hearing closed the Public Hearing at 8:28 p.m.**

Councilmember Kostanich **MOVED,** seconded by Councilmember Rosen to approve AB18-104, an ordinance amending North Bend Municipal Code Section and Table 18.10.030, 18.10.040 and 18.10.050, as a first and final reading.

Councilmember Garcia **MOVED,** seconded by Councilmember Gothelf to amend NBMC Table 18.10.030 – Permitted and Conditional Land Uses Section 1.24 – Other Multifamily Dwellings over Four Units to include a footnote indicated the following: “For affordable housing projects that are not expressly permitted see NBMC 18.27 Development Agreements” and to amend NBMC 18.10.030 – Table of Permitted and Conditioned Uses to add the following: “G. Affordable Housing Projects that are not expressly permitted
may be allowed subject to entering into a Development Agreement per Chapter 18.27.” The motion **PASSED 6-0**.

The main motion then **PASSED AS AMENDED 6-0**.

**AB18-105 – Public Hearing, Ordinance Amending NBMC 10.10 RE Truck Routes**

Public Works Deputy Director Mohr and City Administrator Lindell provided the staff report.

**Mayor Hearing opened the Public Hearing on an Ordinance Amending NBMC 10.10 at 8:59 p.m.**

The following individuals commented on the agenda item:

- **Michael Thomas**, 1231 LaForest Drive SE
- **Elizabeth Davis**, 225 Taylor Ave. S

**Mayor Hearing closed the Public Hearing at 9:03 p.m.**

Councilmember Garcia **MOVED**, seconded by Councilmember Elwood to approve AB18-105, an ordinance repealing and replacing NBMC Section 10.10 regarding Truck Routes, as a first and final reading.

After discussion, Councilmember Garcia withdrew the motion and requested the item be remanded to a Council Committee for further discussion.

**AB18-106 – Motion Authorizing Grant Application Submittal for Tennant Trailhead Park**

Economic Development Manager & Planner Hyde provided the staff report.

Councilmember Kostanich **MOVED**, seconded by Councilmember Rosen to approve AB18-106, authorizing the Mayor to sign and City Staff to submit an application for a LWCF Grant requesting reimbursement funds for Tennant Trailhead Park Acquisition. The motion **PASSED 6-0**.

**AB18-107 – Motion Authorizing Work Order with G&O RE WWTP 2018 Improvement Project**

City Engineer DeBerg provided the staff report.

The following individuals commented on the agenda item:
Councilmember Garcia MOVED, seconded by Councilmember Elwood to approve AB18-107, authorizing a Work Order with Gray & Osborne, Inc. for Design and Construction Management of the WWTP 2018 Critical Improvements Project, in an amount not to exceed $123,750. The motion PASSED 6-0.

**White Property Purchase**

City Administrator Lindell provided the staff report.

Councilmember Gothelf MOVED, seconded by Councilmember Elwood to take any and all necessary action to sell to Ken White, an owner located at 409 Taylor Pl NE, North Bend, WA, approximately 5,000 square feet of property currently located in the “Anderson Trail Area” of EJ Roberts Park under the following conditions:

- Upon completion of a new survey and a Boundary Line Adjustment for Mr. White’s property, a surveyor determines the square footage conveyed is the minimum necessary to cure the encroachments shown in that certain Survey dated October 2, 2017 prepared by Axis Survey & Mapping;
- White pays the City an amount equal to $2.00 per foot for the total square footage conveyed depending on the outcome of such new survey and Boundary Line Adjustment;
- Mr. White signs all documents prepared by the City Attorney, in form approved by the City Attorney including a Restrictive Covenant running with the land that the addition of this square footage shall not be used to increase density of the White property in any way; and
- Mr. White pays all fees associated with the Boundary Line Adjustment.

The motion PASSED 6-0.

**Cascade Golf Course**

City Administrator Lindell provided the staff report.

The following individuals commented on the agenda item:

**Michael Thomas, 1231 LaForest Drive SE**

**Elizabeth Davis, 225 Taylor Ave. S**

Councilmember Gothelf MOVED, seconded by Councilmember Elwood to authorize the Mayor to take any and all necessary action and pay all necessary funds to close the purchase of a portion of the Cascade Golf Course pursuant to a Purchase and Sale
Agreement dated July 11, 2018 for a purchase price of $2.4 million dollars or such other price negotiated following completion of the appraisal contingency. The motion PASSED 6-0.

MAYOR, COUNCIL, AND ADMINISTRATOR CONCERNS AND INITIATIVES:

Councilmember Elwood thanked audience members for their participation and comments provided.

Councilmember Rosen echoed Councilmember Elwood’s comments.

Councilmember Kostanich echoed Councilmember Elwood’s comments. He mentioned the Snoqualmie Valley School District Board was reviewing teachers’ salaries and encouraged those interested to become involved in the process to ensure the community retains high quality educators.

Councilmember Garcia echoed Councilmember Elwood’s comments and also thanked those that volunteered for summer events such as the Block Party, Festival at Mt Si and North Bend Farmers Market. He reminded everyone that school would be in session soon and encouraged all to travel safely in school zones.

Councilmember Volken commented on the haze and smoke from area wildfires and noted the community should get some relief soon from an onshore breeze.

City Administrator Lindell thanked Craig Glazier and Kassi Winter for volunteering for a City Commission appointment. Additionally, she thanked staff for all of their hard work during the busy summer season and Ms. Lodahl for providing updates on various local non-profit fundraising activities.

Mayor Hearing spoke regarding the following items:

- City Survey on Personal Shopping Habits
- Road Closure on East 2nd Street beginning August 27th
- Yard Waste Recycling – Saturday, August 25th 8 a.m. to Noon @ Public Works
- Newly Redesigned City Website
- Mt Si Senior Center SOS event – Saturday, September 15th – 6 p.m. at Snoqualmie Casino
- Cancellation of August 28, 2018 City Council Workstudy

ADJOURNMENT:

Councilmember Gothelf MOVED to adjourn, seconded by Councilmember Elwood. The motion PASSED 6-0.
The meeting adjourned at 10:04 p.m.

ATTEST:

__________________________________________  __________________________________________
Kenneth G. Hearing, Mayor                  Susie Oppedal, City Clerk
Mayor Hearing called the meeting to order at 6:00 p.m.

Councilmembers Brenden Elwood, Chris Garcia, Trevor Kostanich and Martin Volken were present. Councilmember Rosen arrived at 6:03 p.m. and Councilmember Gothelf arrived at 6:10 p.m. Councilmember Loudenback was excused.

**Staff Present:** Mayor Ken Hearing, City Administrator Londi Lindell, Community Development Director David Miller, Deputy Public Works Director Tom Mohr, and Economic Development Manager & Planner Lynn Hyde.

**Executive Session**

Mayor Hearing recessed the Special Workstudy for an Executive Session at 6:02 p.m. to discuss property acquisition, pursuant to RCW 42.30.110(1)(b) and potential litigation, pursuant to RCW 42.30.110(1)(i). No action would be taken as a result of the executive session, which was expected to last sixty minutes.

The workstudy reconvened at 6:56 p.m.

**Adjournment**

The workstudy closed at 6:56 p.m.

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Kenneth G. Hearing, Mayor Susie Oppedal, City Clerk
SUBJECT: Ordinance Amending NBMC 5.04 Regarding Business Licensing

Agenda Date: September 18, 2018

AB18-108

Department/Committee/Individual

Mayor Ken Hearing
City Administrator – Londi Lindell
City Attorney - Mike Kenyon
City Clerk – Susie Oppedal
Comm. & Economic Development – David Miller
Finance – Dawn Masko
Public Works – Mark Rigos, P.E.

Cost Impact: N/A
Fund Source: N/A
Timeline: Immediate

Attachments: Ordinance

SUMMARY STATEMENT:
In 2017, the Washington State Legislature adopted Engrossed House Bill 2005, which directed cities in Washington to adopt model business licensing language. In June 2018, at the direction of the Legislature, the Association of Washington Cities (AWC) released draft model language, and the City Attorney prepared the requisite amendments to NBMC Chapter 5.04.

The new legislation requires cities to only impose licensing requirements upon individuals or companies “engaging in business within the city.” It also provides that for businesses that engage in business within the city but are not physically located within the city, a city must set a minimum dollar threshold below which the businesses are partially or fully exempted from licensing requirements. The minimum threshold of business activity in the ordinance is $2,000, although cities may adopt a higher threshold if desired. Below this threshold, cities must either: (1) exempt these businesses from the licensing requirements entirely, or (2) require licensing, but at no cost to the businesses. City staff and the Finance & Administration Committee recommend Option 2, as reflected in the attached ordinance.

The City of North Bend currently partners with the Department of Revenue’s Business Licensing Service (BLS) to process business licenses. BLS partner cities must adopt the model ordinance language by October 17, 2018 and provide notification to BLS in order to maintain its business licensing program on January 1, 2019.

The attached ordinance amends Chapter 5.04 of the North Bend Municipal Code to be consistent with the model ordinance as released by AWC.

COMMITTEE REVIEW AND RECOMMENDATION: The Finance & Administration Committee reviewed this item at their September 4, 2018 meeting and recommended approval on the Consent Agenda.

RECOMMENDED ACTION: MOTION to approve AB18-108, an ordinance amending North Bend Municipal Code Sections 5.04.015 and 5.04.030(I), as a first and final reading.

RECORD OF COUNCIL ACTION

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ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO BUSINESS LICENSING, AND SPECIFICALLY AMENDING NBMC SECTIONS 5.04.015 AND 5.04.030(I); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, North Bend Municipal Code (NBMC) Title 5, Chapter 4, regulates the licensing of businesses to protect the public health, safety and welfare; and

WHEREAS, in 2017, the Washington State Legislature adopted Engrossed House Bill 2005, which directed cities in Washington to adopt model business licensing language, including a uniform definition of “engaging in business;” and

WHEREAS, in June 2018, at the direction of the Legislature, the Association of Washington Cities (AWC) released draft model language, and the City Attorney prepared the requisite amendments to NBMC Chapter 5.04; and

WHEREAS, the City Council finds that in the interest of compliance with the State law, and to improve current business licensing practices both for the public and City Staff, the City should adopt the proposed amendments to its business licensing regulations; and

WHEREAS, the City Council has considered this Ordinance, together with all public comment, and has determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interests of the citizens of the City; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. North Bend Municipal Code Section 5.04.015 (Business License Required), Amended: North Bend Municipal Code Section 5.04.015 (Business license required) is hereby amended to read as follows:

5.04.015 Business license required.

A. Every person engaging in business within the city during any portion of any taxable year in any business or activity for which a license fee or tax is provided by this chapter must obtain a valid and subsisting license to do so, to be known as a “business license,” issued under the provisions of this chapter and having paid the license fee and tax imposed by the taxes, rates and fees schedule adopted by ordinance. Application for the license is
made through the business licensing service on forms or systems provided. The total licensing fees due, including the business license registration fee and the business licensing service handling fee established by RCW 19.02.075 must accompany the application for the license.

B. The license will expire on the date established by the business licensing service. Each license is personal and nontransferable. In case a business is transacted at two or more separate places by one taxpayer, a separate license is required for each place and a separate registration fee and handling fee must be paid for each place that a business license is issued.

C. All licenses will be issued by the business licensing service in coordination with the finance department. Each license will show the name, and place of business of the taxpayer. The license must at all times be posted in the place of business for which it is issued. When the place of business of a taxpayer is changed, the taxpayer must reapply for the license and pay the appropriate fees as provided for in this chapter, and, upon approval of the change, a new license will be issued for the new place of business. No person may engage in any business for which a license is required under this section, without being registered and licensed in compliance with the provisions of this section; nor may any person holding such business license allow any other person, for whom a separate license is required, to operate under or display his license.

D. The business license must be obtained prior to commencing business within the city and must be renewed and the annual license registration fee paid by the expiration date established by the business licensing service. The license renewal is made through the business licensing service on forms or systems provided. Failure to renew a license by the expiration date may result in the assessment of the business licensing service late renewal penalty established in RCW 19.02.085. If a license remains delinquent for at least 120 days after the expiration date it will be considered abandoned and will be cancelled. A business whose license has been cancelled must reapply for licensure in order to continue to conduct business in the city.

E. There may be an additional administrative assessment, as established by the taxes, rates and fees schedule adopted by ordinance, imposed from the date the license should have been initially obtained, or renewed as the case may be, if the license is not obtained or renewed in a timely manner. The finance director may waive the penalty and interest of the administrative assessment if the license is obtained within 30 days of the date it should have been obtained or renewed, if good cause is shown.

F. Exemption From Business License Requirement. Threshold Exemption: To the extent set forth in this section, the following persons and businesses shall be exempt from the registration, license, and/or
license fee requirements as outlined in this chapter: Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than $2,000 and who does not maintain a place of business within the city shall be exempt from the general business license requirements in this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

Section 2. North Bend Municipal Code Subsection 5.04.030(I) (Definitions – Engaging in Business), Amended: North Bend Municipal Code Subsection 5.04.030 (I) is hereby amended to read as follows:

I. Engaging in Business.

1. The term “engaging in business” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

2. This section sets forth examples of activities that constitute engaging in business in the city, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the city without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection (I)(1) of this section. If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.

3. Without being all-inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf, constitutes engaging in business and requires a person to register and obtain a business license:

   a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the city.

   b. Owning, renting, leasing, using, or maintaining an office, place of business, or other establishment in the city.

   c. Soliciting sales.
d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

f. Installing, constructing, or supervising installation or construction of real or tangible personal property.

g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.

h. Collecting current or delinquent accounts.

i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, and veterinarians.

l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers.

n. Investigating, resolving, or otherwise assisting in resolving customer complaints.

o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person’s behalf, engages in no other activities in or with the city but the following, it need not register and obtain a business license:

a. Meeting with suppliers of goods and services as a customer.

b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of directors member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

d. Renting tangible or intangible property as a customer when the property is not used in the city.

e. Attending, but not participating in, a “trade show” or “multiple-vendor events.” Persons participating at a trade show shall review the city’s trade show or multiple-vendor event ordinances.

f. Conducting advertising through the mail.

g. Soliciting sales by phone from a location outside the city.

5. A seller located outside the city merely delivering goods into the city by means of common carrier is not required to register and obtain a business license; provided, that it engages in no other business activities in the city. Such activities do not include those in subsection (I)(4) of this section. The city expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the state of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus-generating contact or subsequent contacts.

Section 3. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-
emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


CITY OF NORTH BEND:  

_____________________________  

Kenneth G. Hearing, Mayor

APPROVED AS TO FORM:

______________________________

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published:

Effective:

______________________________

Susie Oppedal, City Clerk
SUBJECT:
A Motion Authorizing a Contract with Fury Site Works, Inc. for the SW 10th Street Culvert Maintenance Project

Department/Committee/Individual
Mayor Ken Hearing
City Administrator – Londi Lindell
City Attorney - Mike Kenyon
City Clerk – Susie Oppedal
Comm & Economic Development – David Miller
Finance – Dawn Masko
Public Works – Mark Rigos, P.E.

Cost Impact: $17,894.45 NTE
Fund Source: Storm and Flood (404)
Timeline: Immediate

Attachments: Scope of Work and Fee

SUMMARY STATEMENT:
In April 2018, the Public Works Department became aware of a build-up of streambed material within the 4-foot bottomless arch culvert on SW 10th Street adjacent to the 710 Pump Station in the Forster Woods neighborhood. The conveyance capacity of the culvert has dropped significantly with the build-up of material and cleaning out the culvert prior to heavy rain fall and winter rains is prudent to decrease the likelihood of an overflow. The stream is at minimum flow now, making it the best time to do this work.

Initially the plan was to have the Public Works Department do this work, but other tasks have taken precedence. Quotes were solicited from three contractors from the MRSC Small Works Roster. Only one contractor, Fury Site Works, Inc., came back with a quote as the others could not fit it into their schedule.

Attached is the quote from Fury Site Works, Inc. in the amount of $21,814.85 including tax. This quote includes $3,600 plus tax for haul and disposal of the material, but the material will be placed on site (adjacent to the 710 pump station) so this amount has been removed from the quote for a new total of $17,894.45.

Staff recommends approval of this contract with Fury Site Works, Inc.

COMMITTEE REVIEW AND RECOMMENDATION: The Transportation and Public Works Committee reviewed this item at their September 12, 2018 meeting and recommended approval and placement on Consent Agenda.

RECOMMENDED ACTION: MOTION to approve AB18-109, authorizing a contract with Fury Site Works, Inc. for the SW 10th Street Culvert Maintenance Project, in a form and content acceptable to the City Attorney, in an amount not to exceed $17,894.45

RECORD OF COUNCIL ACTION

<table>
<thead>
<tr>
<th>Meeting Date</th>
<th>Action</th>
<th>Vote</th>
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<tr>
<td>September 18, 2018</td>
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Scope of work:
Clear and Grub
Excavation of Stream Bed
Excavation of Culvert

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<tr>
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<tr>
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<tr>
<td>Equipment 2 (Skidsteer/35 Mini)</td>
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<td>Haul and Disposal (if Needed)</td>
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Excavation of Stream Bed Subtotal $11,808.00

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<th>Unit</th>
<th>Rate</th>
<th>Subtotal</th>
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<td>HR</td>
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<td>HR</td>
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<td>$1,824.00</td>
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Excavation of Culvert Subtotal $8,224.00

Ex. Streambed Total $11,808.00
Ex. Culvert Total $8,224.00
Total Cost Labor & Materials $20,032.00
WA Sales Tax 8.90%
Sub Total $21,814.85

Total Cost to Complete $21,814.85

All Labor, Equipment and Materials are included within this quote.

Sincerely,

Mike Day
Project Manager

Reviewed by:____________________ Title:________________ Date:__________

Approved by:__________________ Title:________________ Date:__________
SUBJECT: A Motion Authorizing a Cost Sharing Agreement with the USGS for Construction, Operation, and Maintenance of the Masonry Pool Level Transmitter

Agenda Date: September 18, 2018 AB18-110

Department/Committee/Individual
Mayor Ken Hearing
City Administrator – Londi Lindell
City Attorney - Mike Kenyon
City Clerk – Susie Oppedal
Comm & Economic Development – David Miller
Finance – Dawn Masko
Public Works – Mark Rigos, P.E.

Cost Impact: $6,911 in 2018, $4,226 inflates annually
Fund Source: Water Operations
Timeline: Immediate

Attachments: Exhibit A - Cost Sharing Agreement, Exhibit B - Cost Estimate and Sharing

SUMMARY STATEMENT:

During the 2015 summer, the City of North Bend’s primary mitigation water source, Hobo Springs, was unable to provide the full amount of required mitigation water due to the Masonry Pool’s low water level (the Seattle Public Utilities (SPU) reservoir that is the source of Hobo Springs). The water level of the Masonry Pool drives the amount of water flowing from Hobo Springs with an approximately 30 – 40 day lag. In other words, when the Masonry Pool water elevation drops, then flows at Hobo Springs will drop 30 to 40 days later. Currently, there is not level sensing telemetry at the Masonry Pool and the City considers it a significant benefit to the water system to have the ability to provide an early forecast so that the mitigation system can be more effectively managed.

To provide an “early warning system”, it is suggested to install a level monitoring system at the Masonry Pool. Having an early warning system will allow City water management staff and operators sufficient time to change operations to avoid mitigation shortfalls in the future. Such changes could include shifting more production to the Mt. Si Spring Plant if flow is available, changing mitigation supply when another source becomes available, or requesting/requiring water curtailment from customers. The proposed change was discussed with SPU, who agreed that level sensing would be desirable at the Masonry Pool and SPU would be willing to share the cost of the equipment and maintenance. SPU then contacted USGS (United States Geological Survey – a scientific agency of the Federal Government) to inquire about costs and to arrange for installation. Attached is the cost sharing agreement and a table outlining the costs as proposed by the USGS and SPU.

This agreement shall provide funding for installation, operation and maintenance of a new USGS level transmitter located at the Masonry Pool. Since the new level transmitter is provided by USGS and is located in the Seattle watershed, staff has negotiated a cost sharing agreement for the installation (One time cost that Seattle, USGS and North Bend would participate in) and the Operation and Maintenance (ongoing annual cost that Seattle and North Bend participate in). Exhibit A outlines overall costs and the participation percentages for each entity. The City of North Bend’s share of the one-time installation cost is $2,686 and the City’s share of ongoing annual O&M costs are $4,226 that will adjust annually for inflation. The total cost to the City of North Bend for October 1, 2018 through September 31, 2019 period would be $6,911. City staff recommend this cost sharing agreement be approved.

COMMITTEE REVIEW AND RECOMMENDATION: The Transportation and Public Works Committee reviewed this item at their September 12, 2018 meeting and recommended approval and placement on Consent Agenda.
City Council Agenda Bill

RECOMMENDED ACTION: MOTION to approve AB18-110, authorizing a Cost Sharing Agreement with the USGS for Construction, Operation, and Maintenance of the Masonry Pool Level Transmitter, in a form and content acceptable to the City Attorney.

<table>
<thead>
<tr>
<th>Meeting Date</th>
<th>Action</th>
<th>Vote</th>
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</thead>
<tbody>
<tr>
<td>September 18, 2018</td>
<td></td>
<td></td>
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</tbody>
</table>
August 29, 2018

Mr. Ken Hearing
Mayor, City of North Bend
211 Main Ave N
P.O. 896
North Bend, Washington 98045

Dear Mr. Hearing:

Enclosed for your review and signature is a fixed-cost Joint Funding Agreement (JFA) for the operation and maintenance of the cooperative streamgaging program between the USGS and the City of North Bend Public Works Department for federal fiscal year 2019 (October 1, 2018 – September 30, 2019). A detailed description of the program is provided in the enclosed table. The total fixed cost of this program is $8,702, of which the City’s share is $6,911. The City’s share includes a one-time cost of $2,686 for the purchase of new equipment and $4,225 for operation and maintenance of the gage. In future years, the cost to the City should only include the cost for operation and maintenance unless new sensors are needed. Mark Mastin, USGS Assistant Center Director, recently had a phone conversation with Chris Cote from your office about this agreement.

If this agreement is acceptable to the City, please sign both copies of the enclosed JFA and return one copy to the address above. Also, please complete the customer contact information on page two of the JFA. PLEASE NOTE: In order to continue operation of these gages, the USGS will need a signed agreement no later than October 1, 2018.

The USGS will bill you annually. For billing purposes, the USGS uses Department of the Interior, Down Payment (Bill) Request, form number DI-1040. If you have questions regarding billing, please contact Sharbra Gordon-Scott, Budget Analyst, at (253) 552-1698 or sgordon-scott@usgs.gov. The USGS has TIN number 91-6001473 on file for the City of North Bend. If this number is incorrect, please contact Sharbra with the correct number.

For your information, the USGS DUNS number is 093640092.

It is understood that the results of this work will be available to the USGS for publication and use in connection with related work. In addition, the USGS may provide unpublished USGS data or information to your office for scientific peer and (or) courtesy review during the course of this jointly planned activity and partnership. Guidance concerning USGS’s non-disclosure policy will be provided with any review material and is further explained in USGS Circular 1367, Fundamental Science Practices, available at http://pubs.usgs.gov/circ/1367/pdf/C1367.pdf.
If you have any questions, please contact Ken Frasl, Western Washington Field Office Chief, at (253) 552-1670 or kefrasl@usgs.gov; or Mark Mastin, Assistant Center Director, at (253) 552-1609 or mcmastin@usgs.gov.

Sincerely,

Cynthia Barton, Ph.D., L.G., L.H.G.
Center Director

Enclosures

cc:
Ken Frasl, Western Washington Field Office Chief, USGS WAWSC, Tacoma, WA
Mark Mastin, Assistant Director, USGS WAWSC, Tacoma, WA
U.S. DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

JOINT FUNDING AGREEMENT

FOR
WATER RESOURCES INVESTIGATIONS

THIS AGREEMENT is entered into as of the, 1 day of October, 2018 by the U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the City of North Bend, party of the second part.

1. The parties hereto agree that subject to availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation a fixed-price agreement for the operation and maintenance of cooperative streamgaging program, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50; and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) includes In-Kind Services in the amount of $

(a) by the party of the first part during the period

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<th>Amount</th>
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<th>to</th>
<th>Date</th>
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<tbody>
<tr>
<td>$1,791</td>
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<td>to</td>
<td>September 30, 2019</td>
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(b) by the party of the second part during the period

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<th>Amount</th>
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<th>to</th>
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<tr>
<td>$6,911</td>
<td>October 1, 2018</td>
<td>to</td>
<td>September 30, 2019</td>
</tr>
</tbody>
</table>

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of:

$N/A

Description of the USGS regional/nations program: USGS Federal Priority Streamgage Program

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.
7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records, or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records, or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at costs, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records, or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data development as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (https://www2.usgs.gov/fsps/).

9. Billing for this agreement will be rendered: **ANNUALLY**. Invoices not paid within 60 days from the billing date will bear interest. Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

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**U.S. Geological Survey**  
United States  
Department of the Interior

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**City of North Bend**

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**USGS Point of Contact**

Name: Mark Mastin  
Address: 934 Broadway, Suite 300  
Tacoma, WA 98402  
Telephone: 253-552-1609  
Email: mcmastin@usgs.gov  
Org Code: GGWNYG0000

---

**Name of Customer**

**Name:**  
**Address:**
1155 E. North Bend Way  
North Bend, WA 98045  
Telephone: 425-888-7650  
Email: mrigos@northbendwa.gov

---

**Customer Point of Contact**

Name: Mark Mastin  
Address: 934 Broadway, Suite 300  
Tacoma, WA 98402  
Telephone: 253-552-1609  
Email: mcmastin@usgs.gov  
Org Code: GGWNYG0000

---

**Signature and Date:**

**Signature:**  
**Date:** 8/24/18  
**Name:** Cynthia Barton, PhD, LHG, LG  
**Title:** Center Director

---

**Signature and Date:**

**Signature:**  
**Date:**  
**Name:**  
**Title:**
Exhibit B

June 27, 2018

City of North Bend
Mark Rigos, Public Works Director

Mark,

Below is the new USGS Masonry Pool Radar Stage Sensor cost breakdown. Rows 1-4 cover the one-time cost of equipment and installation. Row 5 is the annual O&M $. If interested, North Bend cost would be 1/3 of the total for the equipment and installation and then ½ for the ongoing annual O&M. The data would be published in real time on the USGS Web Site. Seattle Public Utilities (SPU) SCADA IMS system would automatically pull the data into SPU’s system. Possibly North Bend could do something similar if needed.

SPU staff discussed and determined it would be best if North Bend coordinated a separate agreement with USGS for the annual O&M and the one-time cost to install the equipment. The USGS contact person is Mark Mastin a hydrologist with the USGS NW Region (mcmastin@usgs.gov, 253-552-1609). Currently, SPU does not have a final agreement with USGS/SCL/SPU until our annual cooperative meeting on August 2nd with the contract expected to be signed in September 2018, however we do not expect the cost below to change. We currently do not have a schedule for the install yet, however it would be in the 2019 fiscal year for USGS which starts October 1, 2018 and ends September 30, 2019.

Please let me know if you would like to discuss this opportunity further with SPU and we can set up a time to meet or schedule a conference call.

Terri Gregg, SPU Wholesale Contracts Manager (206.684.7975)

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<th>Seattle Public Utilities</th>
<th>USGS Cooperative Matching Funds</th>
<th>City of North Bend</th>
<th>Seattle City Light share in %</th>
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SUBJECT: Ordinance Adopting City of North Bend Public Works Standards and Adopting, Amending and Repealing Related Sections of the North Bend Municipal Code

Cost Impact: N/A
Fund Source: N/A
Timeline: November 1, 2018

SUMMARY STATEMENT:

I. INTRODUCTION / BENEFITS:

Public Works Standards govern the construction of both privately financed public improvements, private improvements, and a city’s capital improvement projects such as roads, sidewalks, utilities, etc. The City of North Bend has not had a stand-alone Public Works Standards (PWS) manual. Currently, some of the City’s “public works standards” are scattered throughout North Bend Municipal Code (NBMC) or on separate details and notes. The benefits of having a formal PWS manual are as follows:

A. Regulation is Easier: The Public Works Standards (PWS) allows Public Works Department staff engineers and inspectors to more easily regulate design and inspect construction in North Bend’s best interests for life safety, public health, general welfare, function, fire protection, appearance and maintainability. Without a PWS, it’s cumbersome and difficult to regulate development.

B. Removes Uncertainties: The PWS allows consultant engineers, developers and planners to design a better project (short plat, subdivision, commercial, etc.) as uncertainties in the plans and specifications will be removed.

C. No Longer Need to Re-Invent the Wheel: With the substantial amount of details, templates and notes available in the PWS manual, staff, consultants, and developers will no longer “need to re-invent the wheel” when preparing plans, specifications, estimates, easements, etc. This saves time and money for all parties and is a positive step for efficient economic development. The PWS includes the following: road cross sections, street design standards, water standards, sewer standards, LID cross-sections, variance criteria, permits required, various requirements (testing, inspection, as-built), standard drawing details (road, water, sewer, storm drainage, TESC, lighting, tree planting, miscellaneous), standard plan notes, and many templates (including easements, developer agreement, bill of sale, developer extension checklist, performance security agreement, security agreement and assignment of bank account for construction improvements, construction bond, improvements maintenance bond, landscape maintenance bond, street right-of-way use permit requirements and application, pre-application meeting checklist recommendations, schedule of inspections, utility and drainage easements, drainage covenants, flow control BMP covenants, etc.).

D. Centralizes the Standards: The PWS centralizes existing and many recently created public works documents into one standards book where technical information will be convenient and easy to
City Council Agenda Bill

find. Currently, some of the road standards, sewer standards and sewer details are de-
centralized. Centralizing the standards in a standalone 3-ring binder standards book promotes
efficiency for the City and the development community. The PWS can be sold to the public for a
nominal fee to cover City reproduction costs. It can also be made available online.

E. Improves Public Safety: The PWS improves public safety. For example, on construction
projects, it ensures the engineers and contractors will use specific iron grates instead of plastic
grates.

F. Future Modifications Will Occur More Efficiently: One of the advantages of having a stand-
alone document like this is to enable minor modifications to be done administratively, rather than
having to revise an ordinance and run it through City Council every single time a change is
needed.

G. User Friendliness: The engineering profession and other users can easily find a clearly indexed
manual with all of the design standards and methods at their fingertips without having to search
through multiple locations in the NBMC.

II. HISTORY:

When the City of North Bend was in a development moratorium during the previous decade, it was not as
crucial for the City to have its own PWS. However, times have changed and the City has recently been
experiencing significant development and growth. Having PWS for the City will be preferred for the
following trades: civil engineers, planners, surveyors, geotechnical engineers, transportation engineers,
land-use attorneys, landscape architects, contractors, inspectors, landscapers, builders, bonding agents,
maintenance technicians, etc. The PWS will be the City’s road and utilities development guide for the
next decade and beyond.

III. IMPORTANCE / CONCLUSION:  

The PWS will become one of the more important City documents. It will be relied on extensively by the
above-noted professions and trades for private development and capital improvement projects. The PWS
underwent a fairly rigorous public outreach process. This included meetings with external engineers,
surveyors, builders and planners. It also included several presentations and discussions with the City’s
Planning Commission, and a public hearing. The creation of the PWS began approximately four years
ago and City staff is looking forward to obtaining final approval of the PWS from the City Council.

COMMITTEE REVIEW AND RECOMMENDATION: The Transportation and Public Works
Committee reviewed this item at their September 12, 2018 meeting and recommended approval and
placement on the Consent Agenda.

RECOMMENDED ACTION: MOTION to approve AB18-111, an ordinance
adopting Public Works Standards and repealing, adopting and amending
appropriate provisions of the North Bend Municipal Code, as a first and final
reading.

RECORD OF COUNCIL ACTION

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<th>Meeting Date</th>
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City of North Bend, PO Box 896, North Bend, WA 98045  http://northbendwa.gov
ORDINANCE


WHEREAS, the City of North Bend (“City”) has prepared draft Public Works Standards to be the design and construction standards for all street and utility facilities in order to set forth specific and consistent street and utility design elements for developers and other private parties constructing or modifying street or utility facilities that require City licenses or permits and to establish uniform criteria to guide the City’s construction of new City facilities or reconstruction of existing facilities (attached as Exhibit A); and

WHEREAS, the draft Public Works Standards were submitted to the Planning Commission for a public hearing held on July 12, 2018; and

WHEREAS, the City has conducted an environmental review of the Public Works Standards in accordance with the State Environmental Policy Act, chapter 43.21C RCW; and

WHEREAS, the City Council Transportation and Public Works Committee considered the draft Public Works Standards at its meeting on September 12, 2018;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Public Works Standards, Adopted: The Public Works Standards attached
hereto and incorporated herein as Exhibit A are adopted.

Section 2. NBMC Chapter 12.16 (Private Streets), Repealed: Chapter 12.16 (Private streets) of the North Bend Municipal Code is hereby repealed in its entirety.

Section 3. NBMC Chapter 15.08 (Public Works Construction), Repealed: Chapter 15.08 of the North Bend Municipal Code (Public works construction) is hereby repealed in its entirety.

Section 4. NBMC Chapter 19.02 (Design and Construction Standards for Sanitary Sewer Systems), Repealed: Chapter 19.02 of the North Bend Municipal Code (Design and Construction Standards for Sanitary Sewer Systems) is hereby repealed in its entirety.

Section 5. NBMC Chapter 19.03 (Design and Construction Standards for Water Systems), Repealed: Chapter 19.03 of the North Bend Municipal Code (Design and Construction Standards for Water Systems) is hereby repealed in its entirety.

Section 6. NBMC Chapter 19.04 (Design and Construction Standards for Storm Sewers), Repealed: Chapter 19.04 of the North Bend Municipal Code (Design and Construction Standards for Storm Sewers) is hereby repealed in its entirety.

Section 7. NBMC Chapter 19.05 (Design and Construction Standards for Streets), Repealed: Chapter 19.05 of the North Bend Municipal Code (Design and Construction Standards for Streets) is hereby repealed in its entirety.

Section 8. NBMC Chapter 19.11 (Modifications, Deferments, and Waivers, and Construction in Lieu), Repealed: Chapter 19.11 of the North Bend Municipal Code (Modifications, Deferments, and Waivers, and Construction in Lieu) is hereby repealed in its entirety.

Section 9. NBMC 13.08.050 (Water Flow Requirements for New Construction), Amended: Section 13.08.050 of the North Bend Municipal Code (Water flow requirements for new construction) is hereby amended to read as follows:

13.08.050 Water flow requirements for new construction.
All new construction within the city shall be served by sufficient water flow in order to meet the fire flow policies set forth in the city’s currently approved Water System Plan. The construction of any and all public utilities to meet said fire flow requirements shall be deemed a cost to be paid for by the proponent of any new construction project.

Section 10. NBMC 13.12.040 (Arrangement of Service Pipes), Amended: Section 13.12.040 of the North Bend Municipal Code (Arrangement of service pipes) is hereby amended to read as follows:
13.12.040 Arrangement of service pipes.
The service pipes must be so arranged that the supply to each house or premises may be controlled by a separate water meter setter placed within the right-of-way and near the line of the street curb, and one person must pay for all water used through said services for his own use or the use of others to whom it may be accessible.

Section 11. NBMC 13.12.060 (Service Pipe Placement—Size), Amended:  Section 13.12.060 of the North Bend Municipal Code (Service pipe placement—Size) is hereby amended to read as follows:

13.12.060 Service pipe placement—Size.
When a permit for the introduction of water has been granted, service pipe and connections from the main to and including the stopcock and meter to be placed one foot inside of the curblne will be put in by the customer and maintained by the water department and kept within the department’s exclusive control. In case of application for water service on premises not abutting upon a street upon which there is a city water main and upon approval by the department, the city customer will lay its service pipe and connections and toward the premises for a distance equal to the distance from the main to the curbline, said distance in no case to exceed 40 feet, and permit connection therewith by means of a union and pipes laid at the expense and maintained by the owner of the service, or may in the discretion of the utility superintendent, upon payment of the actual costs thereof, extend the services to the premises of the applicant along and beneath any public street or avenue of the city. No premises shall be allowed to have more than one service connection, except the connection for fire purposes as hereinafter defined; provided, that in the case of industrial or commercial use, two or more connections may be allowed in which case each meter shall be read and computed separately.

Section 12. NBMC 13.12.080 (Placement in Relation to Sidewalk), Amended:  Section 13.12.080 of the North Bend Municipal Code (Placement in relation to sidewalk) is hereby amended to read as follows:

The service pipes from the water meter setter to the building must be placed as prescribed in the city’s Public Works Standards, placed at least two feet below the grade of the sidewalk and the surface of the ground inside the property line.

Section 13. NBMC 13.12.090 (Protection of Water Meter Setter From Frost), Repealed:  Section 13.12.090 of the North Bend Municipal Code (Protection of water meter setter from frost) is hereby repealed in its entirety.

Section 14. NBMC 14.16.030 (Definitions), Amended:  Section 14.16.030 of the North
Bend Municipal Code (Definitions) is hereby amended to read as follows:

14.16.030 Definitions.
For the purposes of this chapter, the following definitions shall apply:
“Approval” means proposed or completed work conforms to this chapter in the opinion of the director.
“Best management practice (or BMP)” means a physical, structural, and/or managerial practice that, when used singly or in combination, prevents or reduces pollution of water. BMPs are listed and described in the manual.
“Clearing” means destruction or removal of vegetation by manual, mechanical or chemical methods.
“Commercial agriculture” means activities conducted on lands defined in RCW 84.34.020(2) and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.
“Detention” means the release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage.
“Detention facility” means an above or below ground facility, such as a pond or tank, that temporarily stores stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored stormwater.
“Director” means the city Public Works Director or his or her designee.
“Earth material” means any rock, natural soil or fill and/or any combination thereof.
“Erosion” means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.
“Excavation” means the mechanical removal of earth material.
“Experimental BMP” means a BMP that has not been approved through a process of using an approved testing protocol.
“Fill” means a deposit of earth material placed by artificial means.
“Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees and brush control.
“Groundwater” means water in a saturated zone or stratum beneath the
“Illicit discharge” means all nonstormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or groundwater quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains and gray water systems.

“Impervious surface” means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

“Interflow” means that portion of precipitation that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface via a wetland, spring or seep.

“Land disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling and excavation.

“Large parcel erosion and sediment control (ESC) plan” means a plan to implement BMPs to control pollution generated during land disturbing activity. Guidance for preparing a large parcel ESC plan is contained in the manual.

“Manual” means the 2005 King County Surface Water Design Manual, including the 2008 amendments thereto. The manual contains BMPs to prevent or reduce pollution, which are hereby adopted by reference.

Mitigation Order of Preference. From first to last:

1. Avoid the impact altogether by not taking a certain action or part of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectify the impact by repairing, rehabilitating or restoring the affected environment;
4. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action; and
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.

“New development” means land disturbing activities; structural development, including construction, installation or expansion of a
building or other structure; creation of impervious surfaces; Class IV –
genereal forest practices that are conversions from timber land to other
uses; and subdivision and short subdivision of land as defined in
RCW 58.17.020. All other forest practices and commercial agriculture are
not considered new development.
“Person” means any individual, partnership, corporation, association,
organization, cooperative, public or municipal corporation, agency of the
state, or local government unit, however designated.
“Pollution” means contamination or other alteration of the physical,
chemical, or biological properties of waters of the state, including change
in temperature, taste, color, turbidity, or odor of the waters, or such
discharge of any liquid, gaseous, solid, radioactive or other substance into
any waters of the state as will or is likely to create a nuisance or render
such waters harmful, detrimental or injurious to the public health, safety or
welfare, or to domestic, commercial, industrial, agricultural, recreational,
or other legitimate beneficial uses, or to livestock, wild animals, birds, fish
or other aquatic life.
“Redevelopment” means, on an already developed site, the creation or
addition of impervious surfaces, structural development including
construction, installation or expansion of a building or other structure,
and/or replacement of impervious surface that is not part of a routine
maintenance activity, and land disturbing activities associated with
structural or impervious redevelopment.
“Site” means a portion of property that is directly subject to development.
“Small parcel erosion and sediment control plan” or “small parcel ESC
plan” means a plan for small sites to implement temporary BMPs to
control pollution generated during the construction phase only, primarily
erosion and sediment. Guidance for preparing a small parcel ESC plan is
contained in the manual.
“Soil” means unconsolidated mineral and organic material on the
immediate surface of the earth that serves as a natural medium for the
growth of land plants.
“Source control BMP” means a BMP that is intended to prevent pollutants
from entering stormwater. Examples include erosion control practices,
maintenance of stormwater facilities, roofing storage and working areas,
and directing wash water and similar discharges to the sanitary sewer or a
dead end sump.
“Stormwater” means that portion of precipitation that does not naturally
percolate into the ground or evaporate, but flows overland, via interflow,
or through channels or pipes into a defined surface water channel or
constructed infiltration facility.
“Stormwater drainage system” means constructed and natural features
which function together as a system to collect, convey, channel, hold,
inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.
“Stormwater facility” means a constructed component of a stormwater
drainage system, designed or constructed to perform a particular function
or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement.

“Vegetation” means all organic plant life growing on the surface of the earth.

“Water body” means surface waters including rivers, streams, lakes, marine waters, estuaries and wetlands.

“Watershed” means a geographic region within which water drains to a particular river, stream or body of water as identified and numbered by the State of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC.

“Wetlands” means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas, and areas created, restored or enhanced as part of a mitigation procedure. Constructed wetlands or the following surface waters of the state intentionally constructed from sites that are not wetlands are not included: irrigation and drainage ditches, grass-lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

Section 15. NBMC Section 14.16.110 (Regulated Activities), Amended: Section 14.16.110 of the North Bend Municipal Code (Regulated activities) is hereby amended to read as follows:

14.16.110 Regulated activities.
The city shall approve or disapprove all new development and/or redevelopment in accordance with the manual, and the city’s Public Works Standards, unless exempted as discussed in NBMC 14.16.170, Exemptions.

Section 16. NBMC Section 14.16.120 (Minimum Standards for All New Development and Redevelopment), Amended: Section 14.16.120 of the North Bend Municipal Code (Minimum standards for all new development and redevelopment) is hereby amended to read as follows:

14.16.120 Minimum standards for all new development and redevelopment.
All new development and redevelopment shall include minimum standards as described in the manual, and the city’s Public Works Standards.

Section 17. NBMC Section 14.16.220 (Director), Amended: Section 14.16.220 of the North Bend Municipal Code (Director) is hereby amended to read as follows:
14.16.220 Director.
The director or a designee shall administer this chapter and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

Section 18. NBMC Section 17.08.105 (Lot Layout and Design), Amended: Section 17.08.105 of the North Bend Municipal Code (Lot layout and design) is hereby amended to read as follows:

17.08.105 Lot layout and design.
The following standards shall be applied to the layout and design of subdivisions and short subdivisions:

A. Lots shall front to a public street, a park or a common open space tract owned by the city or the applicable homeowners association, unless infeasible due to the shape of existing lot lines or the presence of topographic constraints.

B. A shared driveway shall not be used to serve more than four residences. Where access to more than four residences is needed, a public street shall be provided, constructed to the applicable minimum planning/design street standard in Chapter 19.05 NBMC.

C. Lots with double frontages (where streets other than an alley exist on opposing property lines) are permitted only when all of the following circumstances apply:
   1. When such lots are adjacent to a collector or arterial street or where necessary due to topography or other site limitations;
   2. When limited to a maximum of 250 linear feet of double frontage for all applicable lots along such collector or arterial street;
   3. When subject to a landscape buffer as provided in subsection D of this section.

D. If rear lot lines within a subdivision face a street, a minimum 15-foot landscape buffer shall be required between the rear lot line and the adjacent street right-of-way or easement. Said landscape buffer shall consist of Type 2 landscaping per the landscape regulations in Chapter 18.18 NBMC and, when provided for a subdivision, shall be placed in a tract owned and maintained by the applicable homeowners association or otherwise in collective ownership and maintenance of all homeowners within the development.

E. Subdivisions shall additionally meet the following lot size and width variation criteria:
   1. Lot Width. No more than three adjacent residential lots shall have the same width. Variation shall be not less than five feet.
   2. Lot Size. SF lot sizes shall vary between the minimum and maximum ranges prescribed for the LDR zoning district. Specifically, not more than three adjacent lots shall be of the same size (“same size” is defined as within 500 square feet in area.
relative to each other).

Section 19. NBMC Section 17.08.160 (Minimum Subdivision and Short Subdivision Improvements), Amended: Section 17.08.160 of the North Bend Municipal Code (Minimum subdivision and short subdivision improvements), is hereby amended to read as follows:

17.08.160 Minimum subdivision and short subdivision improvements.
A. Prior to final recording of a plat or short plat, the following minimum improvements shall be constructed consistent with the approved plans, except that the director may allow posting of a financial guarantee and/or the execution of a delay of improvement agreement, based on a finding that the deferral of the required improvements is in the best interests of the city of North Bend:
1. Drainage facilities and erosion control measures consistent with Chapters 19.04, 14.16 and 19.01 NBMC;
2. Water mains and hydrant installed and fire flow available, if required;
3. Roadways graded to all lots within the subdivision or short subdivision and capable of providing access by passenger vehicle;
4. Specific site improvements required by the preliminary plat approval ordinance or preliminary short plat approval decision, if the decision requires completion prior to plat recording;
5. Delineation of critical areas that are to remain undeveloped and protected by easement or placement in a separate tract pursuant to NBMC 14.05.135;
6. Temporary control monuments set by a land surveyor, located in conformance with this title, and in place at final inspection. Permanent monuments and control points shall be set and verified by a land surveyor within 90 days of the final lift of asphalt; and
7. Improvements without which the director determines a safety hazard would exist.
B. The director shall have right of entry onto any lot, tract, easement or parcel that is part of the final plat or short plat to ensure compliance with the minimum subdivision improvements required in subsection A of this section.

Section 20. NBMC Section 17.16.040 (Final plat and final short plat engineering plan review requirements), Amended: Section 17.16.040 of the North Bend Municipal Code (Final plat and final short plat engineering plan review requirements) is hereby amended to read as follows:

A. Engineering plans for roads, drainage controls and other proposed or conditioned improvements shall be prepared, submitted and reviewed for approval by the development engineer prior to the commencement of on-site clearing or construction activities.
B. Approval of the engineering details of the proposed sanitary sewer and water systems and other proposed public facilities by the development engineer and the King County department of public health will be required prior to the approval of the final plat.

C. Plans and technical information reports shall be submitted to the department and prepared consistent with the requirements of the adopted city Public Works King County Road Standards, Chapter 14.42 KCC; the adopted King County Surface Water Design Manual, Chapter 19.04 NBMC; and conditions of preliminary approval. Each plan set or document shall be stamped, signed and dated by a civil engineer.

D. Prior to approval of engineering plans, the applicant shall post a site restoration guarantee consistent with the provisions of NBMC Title 19, and shall pay all applicable fees set forth in Chapter 20.09 NBMC.

Section 21. Title of NBMC Chapter 19.01 (General Requirements for Design and Construction of All Public or Private Utility Facilities), Amended: The title of North Bend Municipal Code Chapter 19.01 is hereby amended to read as follows:

Chapter 19.01
GENERAL REQUIREMENTS FOR DESIGN AND CONSTRUCTION OF ALL PUBLIC OR PRIVATE STREETS AND UTILITY FACILITIES

Section 22. New NBMC Section 19.01.015 (Public Works Standards Adopted), Adopted: New Section 19.01.015 of the North Bend Municipal Code (Public Works Standards adopted) is hereby adopted to read as follows:

19.01.015 Public Works Standards adopted.
The adopted City of North Bend Public Works Standards shall serve as the design and construction standards for all street and utility facilities. These standards, in addition to applicable provisions of the North Bend Municipal Code, and state and federal law, shall govern all such work. The city has adopted the standards in this chapter primarily for a two-fold purpose:

A. To set forth specific, consistent, street and utility design elements for developers and other private parties constructing or modifying street or utility facilities which require city licenses or permits; and

B. To establish uniform criteria to guide the city’s construction of new city facilities or reconstruction of existing facilities.

These standards cannot provide for all situations. They are intended to assist but not to substitute for competent work by design professionals. It is expected that land surveyors, engineers, and architects will bring to each project the best of skills from their respective disciplines. These standards are also not intended to limit unreasonably any innovative or creative effort which could result in better quality, better cost savings, or both. Any proposed departure from the standards will be judged, however, on the
likelihood that such departure will produce a compensating or comparable result, in every way adequate for the street and utility user and city resident.

The city’s Public Works Standards may be referred to as the “Standards.” “Standard drawings” shall refer to the drawings contained in the city’s Public Works Standards as adopted in this chapter.

The director of public works is authorized to administratively adopt operating policies and minor changes, or adjustments, to the standard drawings to better implement the standards or allow for changes in design, material, and construction technology and methods occurring after the effective date of the ordinance adopting the Public Works Standards. A copy of the Public Works Standards shall be publicly available at the City’s Public Works Department.

Section 23. NBMC Section 19.01.100, Repeal and Replace: Section 19.01.100 of the North Bend Municipal Code (General requirements) is hereby repealed in its entirety and replaced with a new Section 19.01.100 (General provisions) to read as follows:

19.01.100 General provisions.
A. Permit required. It is unlawful for anyone, except the city public works department or its agent, to perform clearing and grading, street, and/or utility work of any kind, without first obtaining a permit issued by the city. Permits shall not be transferable or assignable without the city’s prior written consent, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided however, that the holder of the permit shall be and remains responsible for the performance of the work under the permit, and responsible for all bonding, insurance and other requirements of this chapter and under said permit.
B. Upon suspension or revocation of a permit, all use of the permitted area shall cease, except as authorized by the director. Continued activity following revocation or suspension under this section shall subject each and every violator to the maximum penalties provided by this chapter, with every day constituting a new violation. The director may revoke or suspend any permit issued under this chapter whenever:
1. The activity does not proceed in accordance with the plans as approved, in accordance with conditions of approval, or is not in compliance with the requirements of this chapter or procedures, or other city ordinances, or state laws;
2. The city has been denied access to investigate and inspect how the right-of-way is being used; or
3. The permittee has misrepresented a material fact in applying for a permit (a material fact is a fact which, had the truth been known at
time of the issuance of the permit, the permit would not have been granted).

C. As a condition to the issuance of any permit under this chapter, the permittee shall be required to execute a written agreement to forever hold and save the city free and harmless from any and all claims, actions or damages of every kind and description that may accrue to or be suffered by any person by reason of the use of such place or the construction, existence, maintenance, use or occupation of any such structure, services, fixtures, equipment and/or facilities on or in a place pursuant to this chapter. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, and that it vests no permanent right whatsoever.

D. The permittee shall at all times and at the permittee’s expense preserve and protect from injury adjoining property by complying with such measures as the director or designee may deem reasonably suitable for such purposes. The permittee shall at all times maintain access to all property adjoining the excavation or work site.

E. To ensure adjacent properties can be provided water, sewer, drainage, and street service, service shall be extended to the extreme property line of the property and design for the ultimate development of the tributary areas. Sewer and drainage service shall be provided by a gravity system unless otherwise approved or directed by the city.

F. Demand projections will be taken from the latest version of the city’s planning documents such the General Sewer Plan, Water System Plan, or other similar document(s) for transportation and drainage systems.

Section 24. NBMC Section 19.01.220 (Construction Administration and Inspection Fees—Sewer Lines), Repealed: Section 19.01.220 of the North Bend Municipal Code (Construction administration and inspection fees—Sewer Lines) is hereby repealed in its entirety.

Section 25. NBMC Section 19.01.230 (Construction Administration and Inspection Fees—Water Lines), Repealed: Section 19.01.230 of the North Bend Municipal Code (Construction administration and inspection fees—Water Lines) is hereby repealed in its entirety.

Section 26. NBMC Section 19.01.240 (Construction Administration and Inspection Fees—Other Facilities/Utilities), Repealed: Section 19.01.240 of the North Bend Municipal Code (Construction administration and inspection fees—Other facilities/utilities) is hereby repealed in its entirety.

Section 27. NBMC Section 19.01.400 (Bill of Sale and Original Design Drawings), Amended: Section 19.01.400 of the North Bend Municipal Code (Bill of sale and original design drawings) is hereby amended to read as follows:
19.01.400 Bill of sale and original design drawings.
Upon completion of construction, the landowner/developer shall furnish the city with an itemization of all costs associated with the construction of the public streets and/or utilities in order that a bill of sale can be prepared. Record construction drawings (commonly known as “as-builts”) drawn on mylar, record drawings provided electronically on a compact disk in AutoCAD format, and other necessary data shall also be submitted at the completion of construction and shall remain the property of the city. In addition, the developer shall furnish the city with a guarantee of workmanship and materials for a period of two years. Such guarantee may be in the form of a cash deposit or a security device in a form and amount approved by the director.

Section 28. NBMC Section 19.01.800 (Construction Drawing Formats), Amended:
Section 19.01.800 of the North Bend Municipal Code (Construction drawing formats) is hereby amended to read as follows:

19.01.800 Construction drawing formats.
The city requires that all construction drawings for work done under this title conform to the following format identified in the Public Works Standards unless exceptions are approved in advance by the city engineer.

The following format and requirements are minimum for normal system extensions. Unusual or special facilities or construction requirements may dictate additional drawings and drawing requirements. Sheet size shall be 22 inches by 34 inches or 24 inches by 36 inches, ink on mylar. Separate construction drawings for each utility are required at a scale of one inch equals 20 feet horizontal and, where profiles are required, one inch equals five feet vertical, showing all existing or proposed utilities, existing or proposed street surfacing and improvements, street centerline and stationing, street right of way margins, street names, legal identifications of properties such as lot number or tax lot number, section subdivision lines, all property lines and all easements and rights of way. Storm drainage improvements may be combined with street improvements and grading plans.

A. Water Drawings. Show the following in plan view:
1. Size, material, location and length of each water main. Length measured between fittings or appurtenances.
2. Station and offset to all fittings and valves and listing of each fitting and the type of connection, e.g., flanges (FL), mechanical joints (MJ), etc.
3. Station and offset to all appurtenances such as fire hydrants, blow off and air/vacuum release assemblies.
4. Details showing how the connection to the existing water system is to be made.
5. Location of all water services and whether the service is a double or single.
6. The city engineer may require profile views for special clearance considerations.

B. Sewer Drawings. Show the following in plan/profile:
1. Station and offset to each manhole. Number each manhole consecutively in the new sewer system in accordance with the city’s designation policy and continuity with existing designations. Branch lines shall use the subnumber of the manhole on the main.
2. Show the size, material, and length of each sewer line between manholes.
3. Show the location of all side sewer stubs and the invert elevation at the end of the stub.
4. Show details as necessary to direct the contractor in making connections to the existing system and to protect existing facilities during construction of the new sewers.
5. All other work and materials required for the construction of the extension shall be clearly shown and concisely illustrated on the plan.
6. For the profile view, show the following:
   a. For each manhole, show the ground elevation, invert elevation of all sewers entering or leaving the manhole, the depth of the manhole, and the manhole number and location (street station and offset).
   b. Show the sewer line in profile and the existing and proposed ground lines. Identify the size, slope, and horizontal length of the sewer line on the profile.
   c. Above the ground line indicate the profile location by street name or other right-of-way designation.
   d. Show all crossing utility and designate special materials, separations, or construction procedures that may be required.

C. Storm Drainage Drawings. Show the following in plan/profile (may be combined with street improvements):
1. Station and offset to each catch basin. Number each catch basin consecutively in the new stormwater system preceded by the initials of the development. Begin at the connection to existing system and proceed upstream. Branch lines shall use the subnumber of the catch basin on the line numbered SR4-1.
2. Show the size, materials, and length of each stormwater line between catch basins.
3. Show details as necessary to direct the contractor in making connections to the existing system and to protect existing facilities during construction of the new stormwater system.
4. All other work and materials required for the construction of the extension shall be clearly shown and concisely illustrated on the plan.
5. The storm drainage profile shall follow the sewer profile format, but replace references to manholes with catch basins and references to sewer with storm drainage.

D. Street Drawings. Show the following in plan/profile (may be combined with storm drainage improvements):
1. Right-of-way width, pavement width, sidewalk and landscaping location.
2. Location of storm drainage facilities.
3. Radius and tangent points of all curves.
4. Grading plan showing location and extent of all cuts and fills using one-foot or two-foot contour lines as appropriate for the slope of the site.

E. Details. Additional drawings shall be used to detail construction methods/specifications including city standard notes to the extent as may be required by the city engineer.

**Section 29. Severability:** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 30. Effective Date:** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


CITY OF NORTH BEND:  

______________________________  
Kenneth G. Hearing, Mayor

APPROVED AS TO FORM:  

______________________________
Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published:  
Effective:  

______________________________
Susie Oppedal, City Clerk
Staff Report and Planning Commission Recommendation
For New Public Works Standards,
and Associated Municipal Code Amendments

Date: July 18, 2018

From: Senior Planner, Jamie Burrell

Proponent: City of North Bend

I. Summary of Proposed Municipal Code Amendments:
Currently the “standards” for public works construction (i.e. water, sewer, storm, street and utility facilities) reside in various sections of the North Bend Municipal Code (NBMC). Many of the “standards” are actually policies that could remain codified, but the engineering design and construction information should be extracted and placed in a central location – The City of North Bend Public Works Standards.

The new City of North Bend Public Works standards have been assembled based upon review of the current NBMC, standards from surrounding cities, standards and regulations from King County Roads and Surface Water Management, State Departments of Ecology and Health, and also comments from staff, including legal, planning and public works, based on their experience with development in the City and areas outside the City. The project began in August 2014 with a draft document first produced in August 2015. The document will be adopted by resolution and referenced in the NBMC. As technology, regulations, construction methods, materials, and the City’s own vision and preferences change, these Standards will need to be updated to reflect the same.

The language of the draft amendments to the NBMC, list of repealed sections of the NBMC, as well as the Street Standards which is the most pertinent section for Planning Commission approval is provided with the attached draft Ordinance. The Planning Commission has reviewed in detail recent street sections and no substantive changes to those sections are proposed. The Public Works Standards carry-over the details from the NBMC unless otherwise noted. One development standard consideration for the Planning Commission is in Chapter 4.04 and 4.24 which proposes some exemptions from street frontage improvements for single-family one-offs in certain instances.

In summary, the Standards provide direction for the design and construction of public infrastructure, including: definitions and authority (Chapter 1); permit requirements, plan development, and submittals (Chapter 2); and financial guarantees, other standards adopted by reference, report requirements, easements, inspection, and record drawings (Chapter 3).
Engineering standards and detail drawings to assist the designer, plans reviewer, contractor, and construction inspector, are provided for each area of infrastructure as follows:

- Chapter 4 - Streets, Pedestrian Pathways, and Bikeways. This chapter contains standards for all aspects for road design and construction including street cross-sections, curbs, sidewalks, signage, monumentation, utilities, pavement markings, bike lanes, landscaping, roadside elements (mailboxes, walls, utility structures, guard rails, etc.,) and materials testing.

- Chapter 5 - Storm Drainage. This chapter provides guidance regarding drainage system design and construction, which is mostly governed by the King County Surface Water Design Manual. However, the Standards provide additional information with respect to construction methods and materials.

- Chapter 6 - Water. This chapter was taken from the City of Bellevue Water Utility standards, with few revisions, as the City of North Bend has been using their water standards or many years.

- Chapter 7 - Sanitary Sewers. This chapter was taken from the City of Bellevue Sewer Utility standards, with few revisions, as the City of North Bend has been using their sewer standards or many years.

- Appendices. The appendices contain several documents to assist City staff and the development community in infrastructure development in North Bend. There are sample documents for easements, performance bond agreements, and checklists to facilitate plans review and construction inspection.

II. Impacts of Proposed Amendment

NBMC 20.08.070 and .080 requires that applications for municipal code amendments be evaluated for their environmental, economic and cultural impacts, as well as impacts to surrounding properties. These impacts are evaluated below.

1) Environmental Impacts. No environmental impacts are anticipated from moving the Engineering Design and Construction Standards from the NBMC to the Public Works Standards stand-alone document. Regulations protecting critical areas, managing stormwater runoff, and controlling floodplain impacts are governed by the Critical Area Regulations in NBMC Title 14, and apply regardless of what type of development occurs on a site.

2) Economic Impacts. The design standards and new engineering techniques for new development will add value to properties and set a standard for the City's physical improvements.
3) **Cultural Impacts.** No significant cultural impacts are anticipated from the amendments.

4) **Impacts to Surrounding Properties.** No negative impacts to surrounding properties are anticipated from the amendments.

III. **Compatibility of Proposed Amendment with North Bend Comprehensive Plan (NBCP)**

In accordance with NBMC 20.08.070 and .080, applications for municipal code amendments must be evaluated for compliance with the Comprehensive Plan.

The Comprehensive Plan Chapter 4 Transportation Element was reviewed for consistency with the proposed Standards.

The proposed public works Standards and associated amendments are consistent with the goals and policies of the Transportation Element as summarized below:

- **Goal 1 Streets and Highways** – *Develop a multi-modal transportation system that is consistent with the land use element of the Comprehensive Plan that preserves and enhances the livability of North Bend and the Upper Snoqualmie Valley. The standards should implement all the goal and associated objectives.*

- **Goal 2 Environmental Quality** – *Develop public and private transportation improvements that minimize adverse impacts on the natural environment, air and water quality, public health and energy consumption, and support healthful mobility options including walking and biking. Most objectives don’t apply to the standards, but they provide for pedestrian and bike travel. Otherwise, all public infrastructure development must meet all environmental standards, rules, & regulations.*

- **Goal 3 Single Occupant Vehicle Trip Reduction** - *Manage the City’s transportation system and develop improvements that minimize trips by single occupant vehicles. Most objectives don’t apply to the standards, but they provide for multi-modal forms of travel and connectivity.*

- **Goal 4 Ped and Bike Transportation** - *Create a bicycle and pedestrian-friendly environment throughout North Bend that connects neighborhoods to the downtown, to cultural, historic, and recreational facilities, and to other transportation elements such as park-and-ride lots and transit routes and to include connectivity to the City of Snoqualmie. The standards should implement all the objectives, although funding is not addressed.*

- **Goal 5 Public Transportation** – *Not applicable, but nothing in the standards will impede the implementation of public transportation goals.*

- **Goal 6 Streetscape** – *Not directly applicable, but via the specific street design criteria for the downtown streets, the standards will implement street designs with character as directed by the PC and Council.*

- **Goal 7 Capital Facilities** – *Not applicable, as these are planning and funding goals.*
IV. Compatibility of Proposed Amendment with the North Bend Municipal Code (NBMC)
In accordance with NBMC 20.08.070 and .080, applications for municipal code amendments must be evaluated for compliance with the North Bend Municipal Code. Numerous sections are proposed to be repealed and will be replaced within the Public Works Standards.

V. Planning Commission Findings and Analysis
Pursuant to NBMC 20.08.100, the Planning Commission shall consider the proposed amendment against the criteria in NBMC 20.08.100 (B). A staff analysis is provided in italics under each criterion below.

1. Is the issue already adequately addressed in the Comprehensive Plan?
The Comprehensive Plan anticipates future extensions of public utilities and construction projects, but does not prescribe the specific standards to be met. The regulations and standards provide those standards, which are consistent with the Comprehensive Plan.

2. Is the proposed change the best means for meeting the identified public need?
The Planning Commission has reviewed and considered the multiple street standards and the adopted code is being transferred over to the Public Works Standards so that they can all be reviewed in one place. The public works standards and associated amendments to related municipal code sections, are found to be the best means for ensuring that the development within North Bend is consistent with the City’s Vision and is compatible with surrounding neighborhoods.

3. Will the proposed change result in a net benefit to the community?
The proposed public works standards and regulations will result in a net benefit to the community through ensuring that development is built in a manner consistent with the City’s goals, policies and standards for providing development to pay for development as it occurs while promoting the rural and small town character central to the City’s vision and identity.

VI. Summary Findings:

1. The Planning Commission reviewed the Public Works Standards and draft regulations at their July 12 and July 26, 2018 Planning Commission meetings, and held a public hearing on at their July 12, 2018 meeting.

2. Pursuant to RCW 36.70A.106, the draft regulations were forwarded to Commerce - Growth Management Services on May 30, 2018.

3. A State Environmental Policy Act Determination of Non-significance was issued on June 15, 2018.

4. This process was started in August 2014 but due to heavy workload, staff changes, and the need to provide sufficient time to prepare further amendments for Planning Commission review and recommendation, the City’s consultant did not receive direction and concise comments back from staff and City legal team to bring this to the finish line until now.

5. No one spoke or submitted comments during the comment period or at the hearing.
6. The proposed amendments are consistent with the procedures established in NBMC 20.08, Comprehensive Plan and Development Regulations Amendment Procedures. The Planning Commission finds that the proposed amendments and Public Works Standards are consistent with the criteria in NBMC 20.08.100(B) and would result in a net benefit to the community.

Staff Recommendation:

Based on the findings above, Staff recommends approval of the draft amendments and proposed Public Works Standards as provided in the attached Exhibit A.

[Signature]
Jamie Burrell, Senior Planner

[Date]
7/26/18

Planning Commission Recommendation

Following consideration of the Comprehensive Plan and Development Regulation Amendment process in NBMC 20.08.070 through 20.08.110 and public comment received at the public hearing, the Planning Commission recommends approval of draft regulations and amendments as provided in the attached Exhibit A.

[Signature]
Planning Commission Chair

[Date]
8/9/18

Exhibits
Exhibit A – including Draft NBMC Regulations, and new proposed Public Works Standards
SUBJECT: Public Hearing and Ordinance Amending North Bend Municipal Code Chapter 20.12 Concurrency

Agenda Date: September 18, 2018

AB18-112

Department/Committee/Individual

Mayor Ken Hearing
City Administrator – Loni Lindell
City Attorney - Mike Kenyon
City Clerk – Susie Oppedal
Community & Economic Development – David Miller
Finance – Dawn Masko
Public Works – Mark Rigos, P.E.

Cost Impact: N/A
Fund Source: N/A
Timeline: Immediate

Attachments: Ordinance, Public Hearing Notice

SUMMARY STATEMENT:

Approximately 3.5 years ago, Public Works staff created a Sewer/WWTP (Wastewater Treatment Plant) Concurrency Table to track WWTP capacity remaining for private development. This Concurrency Table was initially vetted and continues to be reviewed by the City’s primary wastewater consultant John Markus, Ph.D. (formerly of Tetra Tech and now by Gray & Osborne) and City Engineer Don DeBerg. Until recently, the table would get updated approximately every six months. The Table is now getting updated at the start of each month. The Table lists whether or not submitted projects have sewer/WWTP concurrency.

The treatment capacity constraint at the WWTP is BOD (biochemical oxygen demand). The City’s Wastewater Permit with Washington State DOE (Department of Ecology) allows a maximum daily load of BOD at 2,805 pounds per day. During the past year, the BOD over a 1-month average was approx. 1,200 pounds/day. On two occasions since the table was created, the BOD was over 1,700, but is generally hovering in the 1,200 - 1,300 range. During the past several years, the City has issued numerous sewer concurrencies for large projects such as the Dahlgren 212-unit apartments, River Run 129-unit apartments, 43-unit Orchard apartment complex, Polygon’s 24-lot plat on Maloney Grove Avenue, Cedar Landing 132-lot plat, Toll Brothers 131-lot plat, Murray Franklyn 23-lot plat, and several others. These projects are either in the final engineering design phase or infrastructure construction phase, however, the above projects are not yet physically connected to the City’s sewer system. These large plats can easily take 5 - 8 years from project inception when a topographical survey is being completed to actual home occupancy when the residents are running their sink’s garbage disposals.

In the past several months, several new applicants have met with City staff to discuss their plans of new plats (subdivisions). The City is estimating the possibility of new plats totaling an additional 300-400 lots that are at the project inception level, and are not included in what City staff have been referring to as “Pipeline Projects”. These new applicants have not yet submitted preliminary engineering plans to the City, only conceptual level plans have been provided at Pre-Application Review (PAR) meetings or there have been informal discussions with City staff. These additional projects have the potential to use most or all of the remaining treatment capacity at the WWTP, until the WWTP is expanded (with a new oxidation ditch, which is planned 4 - 6 years away). City staff are cognizant that City Council’s desire is to allow and preserve significant commercial land use in North Bend. Staff is concerned that the very hot residential market may continue to stay hot in the immediate future and the pent-up demand for residential may use all of the WWTP’s remaining capacity.

Currently, NBMC Section 20.12 has 20% concurrency reserve set-aside criteria for certain types of single-family residential projects and small projects. The City would like to modify the set-aside
criteria. Based on sewer currencies issued in the past several years and project applicants who have made significant investment already, City staff recommend amending NBMC to create a 9% capacity reserve set-aside percentage for the following land uses:

1. 6% commercial citywide, including 2% commercial in the DC (Downtown Commercial) Zone;
2. 2% for special projects as deemed a public benefit by City Council through a Development Agreement; and
3. 1% for single-family residential (non-subdivision, non-short plat) projects and/or small projects as defined by the criteria in the ordinance.

COMMITTEE REVIEW AND RECOMMENDATION: This agenda item was brought forth at the August 8, 2018 and September 12 Transportation and Public Works Committee (TPW) meetings. TPW recommended this ordinance be presented for approval and placement on the Main Agenda.

RECOMMENDED ACTION: Motion to approve AB18-112, an ordinance amending North Bend Municipal Code Chapter 20.12 Concurrency, as a first and final reading.

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ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AMENDING NORTH BEND MUNICIPAL CODE CHAPTER 20.12, CONCURRENCY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of North Bend ("City") performs concurrency analysis for public facilities, such as sewer, water, streets, and stormwater; and

WHEREAS, the City currently sets-aside concurrency capacity for small residential projects and affordable housing projects; and

WHEREAS, the City wishes to encourage commercial development within the City of North Bend; and

WHEREAS, the City desires to amend North Bend Municipal Code Chapter 20.12 in order to adjust the current set-aside for small residential and affordable housing projects and in order to create a set-aside for commercial development; and

WHEREAS, the City’s Transportation and Public Works Committee held public meetings on August 8, 2018 and September 12, 2018 to discuss the proposed amendments to NBMC Ch. 20.12 relating to the concurrency set-aside; and

WHEREAS, a public hearing on the proposed amendments to NBMC Chapter 20.12 Concurrency was held at the City Council meeting on September 18, 2018;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC 20.12.010 (Definitions), Amended: North Bend Municipal Code Section 20.12.010 (Definitions) is hereby amended to read as follows:

20.12.010 Definitions.

A. “Applicant” means a person who applies to the city for a development permit.

B. “Availability letter” means a letter from a purveyor of water or sewer facilities indicating that the purveyor has sufficient capacity to serve the development proposed by the recipient of the letter.
C. “Certificate of concurrency” means the document issued by the city indicating the location or other description of the property on which the development is proposed, the type of development permit for which the certificate is issued, the uses, densities, and intensities of the development approved for the property, and the public facilities that are available and reserved for the property described in the certificate.

D. “Commercial Development” means the development of an establishment involving an activity with goods, merchandise, or services for sale or involving a rental fee.

E. “Concurrency” means adequate public facilities that meet the level of service standard are or will be available no later than the impact of development.

F. “Concurrency test” means a comparison of an applicant’s impact on public facilities to the capacity of public facilities that are, or will be, available no later than the impacts of development.

G. “Concurrency test deferral affidavit” means a document signed by an applicant which defers the application for a certificate of concurrency and the concurrency test, acknowledges that future rights to develop the property are subject to the deferred concurrency test, and acknowledges that no vested rights concerning concurrency have been granted by the city or acquired by the applicant without such a test.

H. “Development” means improvements or changes in use designed or intended to permit a use of land which will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land, buildings or improvements on the land in a manner that increases the impact on public facilities, and that requires a development permit from the city. Development includes redevelopment, remodeling, or refurbishment that increases the impact on public facilities.

I. “Development permit” means any order, permit or other official action of the city granting, or granting with conditions, an application for development, including specifically:

1. Redesignation in the comprehensive plan;
2. Rezone;
3. Planned action, as that term is defined in RCW 43.21C.030(2);
4. Subdivision, including preliminary plat, short plat, or binding site plan, or mobile home park;
5. Master site plan;
6. Building permit;
7. Grading permit;
8. Certificate of occupancy for a change in use; and
9. Connection of existing development to city facilities.

J. “Dwelling unit” means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.

K. “GFC” means general facilities charges which the city collects for water, sewer and stormwater, the purpose of which is to pay for a portion or all of the capital cost of public facilities.

L. “Impact fees” means impact fees charged by the city pursuant to RCW 82.02.050 et seq., the purpose of which is to pay for a portion or all of the capital cost of public facilities.

M. “Level of service standard” means the number of units of capacity per unit of demand, or similar objective measure of the extent or degree of service provided by a public facility.

N. “Public facilities” for the purpose of concurrency means roads and streets, sewer, stormwater, and water.

O. “Reserve” means to note in the city’s concurrency records in a manner that assigns the capacity or other measure of public facilities to the applicant and prevents the same capacity or other measure being assigned to any other applicant.

P. “Set aside” means a portion of the capacity of public facilities that is reserved by the city for certificates of concurrency for small projects and affordable housing.

Q. “Small projects” for the purpose of concurrency means a single development project of four or less dwelling units, or less than 4,000 square feet of all nonresidential uses.

R. “Vested” means having the right to develop or continue development notwithstanding the concurrency test because of vested rights to obtain a building permit pursuant to RCW 19.27.095.

Section 2. NBMC 20.12.050 (Concurrency Test), Amended: North Bend Municipal Code Section 20.12.050 (Concurrency Test) is hereby amended to read as follows:

20.12.050 Concurrency test.
A. The city shall perform a concurrency test for each application for a certificate of concurrency, except as provided in NBMC 20.12.040. The public works director, or his/her designee, shall determine which of the following methods shall be used to conduct the concurrency test for each type of public facility:

1. If capacity has been established for the year then the public works director shall use the annual certification to determine that the capacity of public facilities is sufficient to maintain the city’s level of service standard for development that is estimated to occur during the following year; or

2. Case-by-case review of the application compared to the capacity of the public facility.

B. The city may enter into an agreement with each public or private entity that provides public facilities in the city to establish the responsibilities of the city and the provider of public facilities in providing data for, or conducting, a concurrency test.

C. If the capacity of available public facilities is equal to or greater than the capacity required to maintain the level of service standard for the impact of the development, the concurrency test is passed, and the applicant shall receive a certificate of concurrency. If the level of service standard is determined by means other than the capacity of public facilities, the concurrency test is passed if the impact of the development will not cause the level of service to decline below the standard set forth in NBMC 20.12.060.

D. In conducting the concurrency test, the city shall determine that public facilities that are needed to achieve the level of service standards are available if:

1. The public facilities have already been constructed; or

2. The public facilities are included in the capital facilities plan element of the city’s comprehensive plan (or comparable plan adopted by the governing board of other providers of public facilities) and planned to be constructed on or before the impact of development occurs as determined by NBMC 20.12.060(C); and

3. The public facilities needed to achieve the level of service standard and planned for construction are underwritten by one or more of the following financial commitments specific to the additional public facility:
   a. Grants from federal, state or private sources if the grant has been awarded for specific projects;
b. Appropriations in state biennial budget for specific projects;

c. Revenues that can be imposed or expended at the discretion of the city of North Bend, including, but not limited to, impact fees, general facilities charges, SEPA mitigation payments, property taxes, real estate excise taxes, user fees, charges, intergovernmental entitlements, and bonds;

d. Revenue from special assessment districts created by the city;

e. Irrevocable commitments from developers in a form acceptable to the city:

   i. Performance or surety bonds from Washington financial institutions;

   ii. Letters of credit from Washington financial institutions; or

   iii. Assignments of assets in Washington (i.e., interests in real property, savings certificates, bank accounts, or negotiable securities);

   f. Payments by special districts, including sewer, water, and schools, if such payments are similar in character and reliability to those listed in subsections (D)(3)(a) through (e) of this section; and

4. If the financial commitments that underwrite the planned public facilities include impact fees, the applicant has paid all impact fees when due under the applicable provisions of the North Bend Municipal Code and the taxes, rates and fees schedule adopted by ordinance for the proposed development.

E. If the capacity of available public facilities is less than the capacity required to maintain the level of service standard for the impact of the development, or the impact of the development will cause the level of service to decline below the standard set forth in NBMC 20.12.060, the concurrency test is not passed, and the applicant may select one of the following options:

1. Accept a 90-day encumbrance of public facilities that are available, and within the same 90-day period amend the application to reduce the need for public facilities to not exceed the capacity that is available, or arrange to provide for public facilities that are not otherwise available; or
2. Reapply for a certificate of concurrency following the denial of an application for a certificate of concurrency; or

3. Appeal the denial of the application for a certificate of concurrency, pursuant to the provisions of NBMC 20.12.090.

F. The city shall conduct the concurrency test first for the earliest complete concurrency application received. A complete concurrency application shall consist of the filled out concurrency application form and supporting information as submitted for the transportation and utilities elements of the SEPA checklist. If a checklist is not required for the proposal, the supporting information shall consist of relevant transportation and utilities information as might be submitted if a SEPA checklist were required. Subsequent applications will be tested in the same order as the city receives applications and determines them complete. A complete application ready for final disposition may move ahead of another complete application that preceded it if:

1. The later application has been in line at least 180 calendar days; and

2. The earlier applicant has received notice by the city to complete the process within 14 calendar days or lose his/her place in line.

G. The city shall set aside 9.20 percent of the capacity of public facilities that is available as of the effective date of the ordinance codified in this section, and 9.20 percent of any future increases of system capacity of public facilities. Of that 9 percent of set-aside capacity, 6 percent shall be reserved for Commercial Development. Of that 6 percent, 2 percent shall be reserved for Commercial Development in the Downtown Commercial Zone of the City. 2 percent of the 9 percent set-aside capacity shall be reserved for special projects as determined to be a public benefit by City Council as regulated through a Development Agreement. The final 1 percent of the 9 percent set-aside shall be reserved and issue the set-aside capacity for single-family residential (non-subdivision, non-short plat) housing projects or projects which meet the definition of a small project. The City shall determine which single-family residential housing projects or small projects are eligible for the set-aside program taking into account the following criteria:

1. The small project is not owned by the same person or organization, or a related individual or organization, as any other small project;

2. The small project is not part of a development permit application for any other small project, or any project that is not a small project;
3. The small project is not adjacent to any other small project;

4. Other criteria that the city determines to be reasonable and equitable in preventing abuse of the small project set-aside program.

H. The city shall condition all development permits requiring one or more public facilities provided by entities other than the city on the availability of the public facilities to be provided by those other entities. The city may enter into an agreement with each public or private entity that provides public facilities in the city to establish the responsibilities of the city and the provider of public facilities in providing data for, or conducting, a concurrency test.

I. A concurrency test, and any resulting certificate of concurrency, shall be administrative actions of the city that are categorically exempt from the State Environmental Policy Act.

**Section 3. Severability:** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 4. Effective Date:** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


CITY OF NORTH BEND: 

APPROVED AS TO FORM:

____________________________
Kenneth G. Hearing, Mayor

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

____________________________
Susie Oppedal, City Clerk
NOTICE IS HEREBY GIVEN that the North Bend City Council has scheduled a hearing to solicit public input and comments on proposed amendments to North Bend Municipal Code Chapter 20.12 Concurrency in order to encourage commercial development and reserve concurrency for commercial uses. The public hearing will take place during the Council Meeting on Tuesday, September 18, 2018, at 7:00 PM at the Mt. Si Senior Center, 411 Main Ave. S., North Bend, WA. The text of the proposed amendments are available for viewing under Public Notices on the City website at http://northbendwa.gov.

Comments may be presented orally at the public hearing or submitted in writing to the City Clerk at P.O. Box 896, North Bend, WA, 98045, or by e-mail to: soppedal@northbendwa.gov prior to 5:00 PM, September 17, 2018. For additional information please contact Mark Rigos, Public Works Director at (425) 888-7650.

Posted: August 31, 2018
Published in the Snoqualmie Valley Record: September 7, 2018
SUBJECT: An Ordinance Amending the City of North Bend Zoning Map

Agenda Date: September 18, 2018
AB18-113

Department/Committee/Individual

Mayor Ken Hearing
City Administrator – Londi Lindell
City Attorney - Mike Kenyon
City Clerk – Susie Oppedal
Community & Economic Development – Jesse Reynolds X
Finance – Dawn Masko
Public Works Director – Mark Rigos

Cost Impact: N/A
Fund Source: N/A
Timeline: Immediate

Attachments: Ordinance, Exhibit A – Zoning Map, Exhibit B - Staff Report & Planning Commission Recommendation

SUMMARY STATEMENT:

The City Council desires to ensure the North Bend Official Zoning Map promotes downtown revitalization and concentration of growth to already developed areas, while concurrently preserving forested and other natural landscapes, in support of Comprehensive Plan Land Use Goal LU-1. Several zoning map changes were proposed during a City Council work-study session in January 2018. This amendment covers Zoning Map Amendment Twelve (12). The areas highlighted yellow in the Exhibit A map show the specific areas covering Zoning Map Amendment Twelve (12), which are proposed to be zoned from Cottage Residential to Low Density Residential. The zoning change in this area was decided on because it is outside of the ¾ mile radius of the center of downtown at Ballarat and North Bend Way.

The North Bend Planning Commission deliberated on this amendment through a public hearing on June 28, 2018 and rejected the amendment for reasons outlined in the Staff Report & Planning Commission Recommendation (Exhibit B). The report details the Planning Commission’s findings and rationale for their decision. The Planning Commission’s reasoning for rejecting the amendment includes the following:

- Property owners who testified at the public hearing were not in favor of the change, partly due to paying ULID fees assessed at Cottage Residential zoning appraisals.
- Recent development activity near the proposed zoning change has resulted in higher density.
- Cottage Residential is compatible with other nearby zoning designations (NB, EP-1, HDR).
- Existing Cottage Residential homes in area would become a non-conforming use.
- This location is near enough to downtown to accommodate walking downtown.
- This action may cause uncertainty to property owners and properties nearby.
- Changes to Cottage Residential Zoning (NBMC 18.11) will lead to more attractive developments.

COMMITTEE REVIEW AND RECOMMENDATION: The CED Council Committee met on August 21, 2018 to review the Planning Commission’s recommendation. The Committee recommended the agenda item be brought forward for full Council consideration at the September 18, 2018 City Council meeting.

RECOMMENDED ACTION: Motion to approve AB18-113, an ordinance amending the North Bend Official Zoning Map, as a first and final reading.

RECORD OF COUNCIL ACTION

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ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO NORTH BEND LAND USE ZONING; AMENDING THE CITY OF NORTH BEND OFFICIAL ZONING MAP TO REZONE A SECTION OF LAND ZONED AS COTTAGE RESIDENTIAL AS LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City is required to prepare a Comprehensive Plan (“Plan”) under the Growth Management Act (“GMA”) and to implement the Plan with development regulations which are consistent with the Plan pursuant to RCW 36.70A.040; and

WHEREAS, RCW 36.70A.130(4)(a) requires continued review and evaluation by the City of its Plan and development regulations, including the City’s Official Zoning Map; and

WHEREAS, the City’s Comprehensive Land Use Plan Goal LU-1 encourages infill residential development and reduction of sprawl; and

WHEREAS, the City Council examined potential zoning map amendments to promote Comprehensive Land Use Plan Goal LU-1 during a work-study exercise in January of 2018, with the specific intention of promoting downtown revitalization and concentration of growth to already developed areas, while concurrently preserving forested and other natural landscapes through amendments of the North Bend Official Zoning Map; and

WHEREAS, proposed Zoning Map Amendment Twelve (12), involves the change of zoning from Cottage Residential to Low Density Residential in an area outside of the downtown core, as depicted in Exhibit A to this Ordinance, namely the areas abutting both E North Bend Way and SE Cedar Falls Way from the parcels on both sides of Stilson Ave SE at the west, to the parcels west of 436th Ave SE to the east; and

WHEREAS, a public hearing on proposed Zoning Map Amendment Twelve (12) was held at the North Bend Planning Commission meeting on June 28, 2018; and

WHEREAS, the Planning Commission’s recommendation was to reject proposed Zoning Map Amendment Twelve (12) for reasons described in Exhibit B, the Planning Commission Staff Report dated July 18, 2018; and
WHEREAS, notification of the Planning Commission’s rejection was presented to the North Bend City Council Community and Economic Development (CED) Committee on August 21, 2018; and

WHEREAS, the CED Committee unanimously decided to bring proposed Zoning Map Amendment Twelve (12) to a full City Council vote on September 18, 2018;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. City of North Bend Official Zoning Map, Amended: The Community and Economic Development Director is hereby authorized and directed to make necessary edits to the City of North Bend Official Zoning Map consistent with the changes described in Zoning Map Change Twelve (12), as depicted on Exhibit A to this Ordinance, a copy of which is attached hereto and incorporated herein by reference.

Section 2. Severability: Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date: This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

Exhibit B

(Planning Commission Staff Report on following page)
Staff Report and Planning Commission Recommendation for Denial of
2018 Zoning Map Amendment 12, Cottage Residential to Low Density Residential

Date: July 6, 2018 (updated July 18, 2018)
Proponent: City of North Bend

I. Summary of Proposed Municipal Code Amendments:
The City of North Bend is proposing amendments to the North Bend Zoning Map, rezoning an area from Cottage Residential District (CR) to Low Density Residential (LDR). The proposed Zoning Map amendment area covers an area of land abutting SE North Bend Way to the North, SE Cedar Falls Way to the South, 436th Ave SE to the East, and parcels just west of Stilson Ave SE. The detailed area is shown in Exhibit A.

These, and other potential zoning map changes are a result of a City Council working session that took place in January of this year. The overall purpose of this exercise was to provide direction to the Planning Commission to consider, through the public process, and recommend amendments to the zoning map that create better continuity and compatibility between adjacent zones, current land use, and projected future growth. Specific to this zoning map amendment is Council’s desire to promote cottage housing to be within walking distance of the core downtown area.

In considering the new Cottage Residential Regulations in NBMC 18.11 (which are now adopted), the City Council felt the existing CR zone extended too far east of the downtown core, as cottages ideally should be located within walking distance of commercial services. Accordingly, the City Council has recommended rezoning properties within the CR zone that front to Stilson Avenue, and the rest of CR Zone east from there, to Low Density Residential.

The properties fronting to Stilson Avenue already are limited in NBMC 18.11 to single-family residential uses to preserve the lower-density, forested character of that street, as further articulated in NBMC 18.11.070.

To the east of the properties fronting to Stilson Avenue, there is only one undeveloped large property that could be developed with cottages, as the other two properties are already developed (Cottages at North Bend, and the Cascade Covenant Church).

In general, the resulting full buildout of this area subject to the zoning change will be that of a single-family neighborhood with less density. Relevant municipal codes are NBMC 18.10.020 Zoning districts — Purposes, and NBMC 18.10.030 Table of permitted and conditional uses.

II. Impacts of Proposed Amendment
NBMC 20.08.070 and .080 requires that applications for municipal code amendments be evaluated for their environmental, economic and cultural impacts, as well as impacts to surrounding properties. These impacts are evaluated below.
1) Environmental Impacts. No environmental impacts are anticipated from the proposed zoning map amendment. Regulations protecting critical areas, managing stormwater runoff, and controlling floodplain impacts are governed by the Critical Area Regulations in NBMC Title 14, and apply to all future development regardless of what type of development occurs on a site within the affected area.

2) Economic Impacts. The amendments may have both positive and negative minor economic impacts to various parties. Minor positive economic impacts to adjacent property owners (from promoting protection of property values) result from maintenance of the existing aesthetic/landcover conditions within the neighborhood. Negative economic impacts to landowners center around the lower potential unit count for subdividing residential developments based on LDR zoning rather than CR zoning.

Through review of assessed values on King County iMap the following appraised values were obtained.

- Appraised value of a new CR home = $500,000 – $550,000
- Appraised value of a new LDR home = $590,000 – $700,000

3) Cultural Impacts. No significant cultural impacts are anticipated from the amendments. The map amendment is proposed consistent with maintaining the City’s rural and small-town character as provided in the City’s Vision Statement, though this action will slightly limit the potential availability of lands to create more single-family homes. Traffic impacts to this area due to the proposed zone map change would be less than what was predicted in the Transportation Element of the 2015 Comprehensive Plan, because estimates were made assuming the entire area of interest is zoned to Cottage Residential.

4) Impacts to Surrounding Properties. No significant impacts to surrounding properties are anticipated from the amendments. The zoning map change would limit future redevelopment in this area. Maximum future buildout, assuming multiple properties would be conglomerated for subdivisions are as follows (excluding areas abutting Stilson Ave., per Ord. 1657):

- Maximum potential CR homes = 107 (50 west of Cottages at North Bend, 57 east)
- Maximum potential LDR homes = 43 (20 west of Cottages at North Bend, 23 east)

III. Compatibility of Proposed Amendment with North Bend Comprehensive Plan (NBCP)
In accordance with NBMC 20.08.070 and .080, applications for municipal code amendments must be evaluated for compliance with the Comprehensive Plan.

Both CR and LDR zones fall within and are consistent with the Residential Land Use Designation. The draft map amendments are consistent with and implement the City’s vision of preserving its rural character, natural beauty and small-town scale, as articulated in the Land Use Element of the Comprehensive Plan. The Land Use Designation Map, Figure 1-1 of the Land Use Element establishes the area subject to this potential rezone within the Residential Land Use Designation. Table H.4.B: Residential Capacity to Growth Targets – 2015 in the 2015 Comprehensive Plan states the remaining units to meet the 2035 minimum housing target were 446. Permitted and proposed residential development projects between the years of 2016 and 2020 currently total 1,082 (652 single-family, 430
multi-family). North Bend is well beyond its minimum housing target. This proposed zoning map amendment will not affect this target.

IV. Compatibility of Proposed Amendment with the North Bend Municipal Code (NBMC)
In accordance with NBMC 20.08.070 and .080, applications for municipal code and map amendments must be evaluated for compliance with the North Bend Municipal Code. The proposed zoning map amendment is compatible with the North Bend Municipal Code.

V. Planning Commission Findings and Analysis
Pursuant to NBMC 20.08.100, the Planning Commission shall consider the proposed amendment against the criteria in NBMC 20.08.100 (B). A staff analysis is provided in italics under each criterion below.

1. Is the issue already adequately addressed in the Comprehensive Plan?
   *The Comprehensive Plan provides growth targets in relation to housing stock. As mentioned in Section 111 above current and proposed development projects place 2020 population projections well above the 2035 target. This proposed zoning map amendment will not affect this target. Also, this proposed zoning map amendment as well as the CR and LDR zones all support the Land Use Element of the Comprehensive Plan.*

2. If the issue is not addressed in the Comprehensive Plan, is there a need for the proposed change?
   *The City Council requested consideration of the proposed change, as articulated in the summary above.*

3. Is the proposed change the best means for meeting the identified public need?
   *The Planning Commission concluded the proposed zoning map amendment is not the best means to address public needs. No members of the public spoke in favor of the amendments, but two spoke in opposition at the hearing.*

4. Will the proposed change result in a net benefit to the community?
   *The proposed zoning map amendment will result in a negative impact to the community by reducing the variety of housing in the community. Further, this will result in land use conflicts from greatly increased traffic on the project frontage.*

VI. Summary Findings:
1. A State Environmental Policy Act Determination of Non-significance was issued on the draft amendments on May 21, 2018. The Environmental Checklist and SEPA Determination are on file and available upon request.
2. Pursuant to RCW 36.70A.106, the draft amendments were forwarded to Commerce - Growth Management Services on May 17, 2018.
3. The Planning Commission reviewed the draft amendments at their May 24th and June 28th, 2018 Planning Commission meetings.
4. The proposed amendments are consistent with the procedures established in NBMC 20.08, *Comprehensive Plan and Development Regulations Amendment Procedures*. The Planning Commission finds that the proposed amendments are consistent with the criteria in NBMC 20.08.100(6) but would not result in a net benefit to the community.
Staff Recommendation:

Based on the findings above, Staff sees both benefits and pitfalls to both accepting and declining this zoning map change, and for this reason chooses to abstain from providing a recommendation.

Jesse Reynolds, Long Range Planner

Planning Commission Recommendation

Following consideration of the Comprehensive Plan and Development Regulation Amendment process in NBMCR 20.08.070 through 20.08.110 and public comment received at the public hearing, the Planning Commission recommends no change to current zoning and a denial of draft amendments to 2018 Zoning Map Change 12 CR to LDR, as provided in the attached Exhibit A. Below are the findings for denial of zoning from Cottage Residential to Low Density Residential for this area.

WHEREAS. The North Bend Planning Commission considered the zoning request for the property abutting SE North Bend Way to the North, SE Cedar Falls Way to the South, 436th Ave SE to the East, and parcels just west of Stiles Ave SE, as shown in Exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that property owners testified at the Planning Commission meeting that they joined into the sewer ULID and were assessed costs for sewer service on the basis of a maximum residential density of 8 units/acre for the CR Zoning District and would now have their maximum zoning density reduced to 4 units/acre, claiming a reduction of 4 units per acre results in a diminution of their property values; and

WHEREAS. The North Bend Planning Commission considered the zoning request for the property identified in exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that development activity in the vicinity of the proposed zoning change has resulted in high density residential, single family, and commercial developments being constructed nearby, causing the traffic on Cedar Falls Way to increase such that a single family residential density would not be desirable with the traffic volumes on Cedar Falls Way, and

WHEREAS. The North Bend Planning Commission considered the zoning request for the property identified in exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that properties zoned as Neighborhood Business (NB), Industrial (EP-1) and High Density Residential (HDR) in the immediate vicinity of the proposed zone change indicate that Cottage Residential use is compatible and a more suitable density and intensity of use at the subject site; and

WHEREAS. The North Bend Planning Commission considered the zoning request for the property identified in exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that within he area of the proposed zoning...
change that there exists a recently constructed cottage residential project which would become a non-conforming use with some restrictions on future improvements; and

WHEREAS. The North Bend Planning Commission considered the zoning request for the property identified in exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that the Commission determined that cottage residential development is more affordable than single family low density residential products, and the need for this type of housing is significant and increases the housing variety available in North Bend, and therefore cottage residential zoning should not be reduced to the detriment of this housing need;

WHEREAS. The North Bend Planning Commission considered the zoning request for the property identified in exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that the Cottage Residential Zoning is located near enough to the downtown to accommodate residents walking to the downtown;

WHEREAS. The North Bend Planning Commission considered the zoning request for the property identified in exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that recent activities suggesting changes to the City of North Bend Zoning Map cause uncertainty to property owners and properties located nearby the proposed zoning change; and

WHEREAS. The North Bend Planning Commission considered the zoning request for the property identified in exhibit A to be rezoned from Cottage Residential (CR) to Low Density Residential (LDR) at their regular meeting held on June 28, 2018, and found that recent changes to the Cottage Residential Zoning District would result in attractive medium density neighborhoods at the subject site, and would mitigate some of the objections to Cottage Residential development;

NOW THEREFORE BE IT RESOLVED that the Planning Commission recommends to the City Council that Cottage Residential Zoning be retained on the subject properties and that the recommendation to zone the properties to Low Density Residential be denied. Future consideration of this zone change may be appropriate when considered together with broad zoning amendment updates.

Planning Commission Chair

Date

Exhibits
Exhibit A – Affected Parcels Map Zoning Change Option 12 CR to LDR
Exhibit B – Written comments received for the June 28, 2018 Public Hearing
# Council Packet September 18, 2018

## City Council Agenda Bill

### SUBJECT:

**Motion Authorizing an Interlocal Agreement with Si View Metropolitan Park District for the Ownership, Maintenance, Scheduling and Operation of the Cascade Golf Course Property**

**Cost Impact:** $0 (The District will pay $1.8 Million Dollars to the City upon closing for a 75% tenant in common ownership interest)

**Fund Source:**

**Timeline:**

**Attachments:** Interlocal Agreement for Ownership, Maintenance, Scheduling and Operation of Cascade Golf Course

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<td>City Attorney - Mike Kenyon</td>
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<td>Community &amp; Economic Development – David Miller</td>
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<td>Finance – Dawn Masko</td>
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<td>Public Works – Mark Rigos, P.E.</td>
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### SUMMARY STATEMENT:

**Background**

The purpose of this Agenda Bill is to approve an Interlocal Agreement between the City and Si View Metropolitan Park District for the ownership, maintenance, scheduling and operation of the Cascade Golf Course property ("Agreement"). Before describing the terms of the Agreement, it will be helpful to describe the background leading up to the City’s pending acquisition of the subject property.

On July 17, 2018, the City Council authorized a Work Order with Golder Associates and Nicole DeNovio, the City’s water hydrologist to provide water rights support in connection with a potential new water right at the Cascade Golf Course. Ms. DeNovio and Golder have been heavily involved in the City’s water rights since 2004 when they assisted the City to obtain additional water rights resulting in the Centennial Well water right. Golder provided technical support to determine the new (Centennial) well’s effect on the Snoqualmie River, developed the water mitigation algorithm, and created a web-based computer program for the City’s water operators. Ms. DeNovio is continuing her work with the City and Department of Ecology to perfect the Cascade Golf Course water right for use as mitigation water.

On August 21, 2018, the City Council moved to authorize the Mayor to take all necessary action to close on the purchase of certain real property commonly known as a portion of the Cascade Golf Course subject to the property appraising for $2.4 Million Dollars. The closing of this transaction is scheduled for the end of November 2018. The Property owner has advised the City’s appraiser that he has a slightly higher backup offer on the Property from a developer.

**North Bend’s Existing Water Rights and Duty to Mitigate**

As a refresher, the City of North Bend has two water rights: Mt Si Springs and Centennial Well. The Mt Si Springs water right allows the City to pump up to 336 acre-feet per year (AFY) and the City has no obligation to mitigate in connection with using this water right. Under the Centennial Well water right, the City is allowed to pump up to 3,094 AFY (we are currently using less than 50% of this water right) but the City is obligated to mitigate.

Water use under the Centennial Well is subject to mitigation or minimum instream flow requirements at three locations on the Snoqualmie River: Snoqualmie, Carnation, and Monroe gauges. The City is required to replace the stream depletion resulting from new groundwater withdrawals in the Snoqualmie River from another source when minimum instream flow requirements are not met at any of the three gauging locations. The mitigation requirement must be calculated every day, and mitigation water...
City Council Agenda Bill

supplied from a mitigation source, currently Seattle Public Utilities’ (SPU) Hobo Springs, if needed. Sallal Water Association was identified as a secondary source of mitigation, if needed, by the Centennial Permit. However, the Centennial Permit noted the City could consider the use of “other sources” such as the Cascade water right.

History of Mitigation
During the 10 years of operation under the Centennial Permit, North Bend has not needed the secondary mitigation source except for a few days during a drought year in 2015 when SPU drained the Masonry Pool to complete a capital project (resulting in drying up Rattlesnake Lake and Hobo Springs) and an employee made an error by failing to mitigate during this same time period. In response to this 2015 event, the City is adding a new gauge on the Masonry Pool to allow the City 30 days advance notice if SPU similarly drains the Masonry Pool; the new variable rate pumps on Mt Si Springs provide additional water supply; and the City has hired a full time SCADA Operator whose job functions principally include monitoring gauges and insuring the City properly mitigates per the Centennial Permit.

Sallal as a Mitigation Source
The Centennial Permit provides that “up to 35% of Sallal’s water right, 243.6 Acre Feet per Year (AFY), is available to North Bend from Sallal wells 1 and 2 for mitigation purposes as a supplement to the Hobo Springs source”. Now that the City has 10 years of available data both DOE and Ms. DeNovio believe this number is much higher than actually required for a secondary mitigation source. This is why we are currently conducting the new study. Updates to both the City’s growth projections following the Council’s land use downzones will help to ensure that the City is planning for the appropriate AFY of mitigation water. Although Ms. DeNovio’s work is not completed, it is likely she will conclude this 243 AFY is too high given our 10 years of experience.

The City and Sallal entered into a Memorandum of Intent dated July 18, 2017 (MOI) providing that Sallal “will provide untreated water to the City to supplement stream flows in Boxley Creek when the City’s supply for the City of Seattle’s Hobo Springs water source is insufficient for such purpose”. The MOI further provides that the “City will provide potable water to Association on a wholesale, phased-in and as needed basis”. The parties have attempted for over ten (10) years to reach an agreement to implement this water supply MOI and obstacles have included Sallal initially seeking a rate which would result in the City’s water utility subsidizing Sallal’s utility and violating the Washington state constitutional prohibition on gifts of public funds. More recently, North Bend requested that Sallal simply sell North Bend mitigation water without North Bend selling wholesale water as this would address concerns heard from citizens about such an agreement stimulating new development activity. The Sallal Board has refused to sell the City mitigation water without a corresponding provision wherein the City delivers wholesale potable water to Sallal. Finally, the City most recently learned that Sallal did not reserve any portion of this 243 AFY for the City. Based on all of the foregoing, the City also has been pursuing alternative mitigation sources such as the Cascade Golf Course consistent with our Centennial Well Permit.

Interlocal Agreement
The attached Agreement has the following pertinent provisions regarding approximately 28 acres covering a portion of the Cascade Golf Course (“Property”):

- The City will have the primary right to the Cascade Water right consisting of 33 AFY to use it for mitigation purposes consistent with any requirements imposed by any subsequent Department of Ecology order.
- The City and the District will own the Property as tenants in common with the District owning an undivided 75% ownership interest (consistent with its $1.8 Million Dollar contribution toward the $2.4 Million Dollar purchase price) and the City owning an undivided 25%
ownership interest;

- A restrictive covenant will be recorded against the entire Property providing that the Property may only be used for “open space, park, recreation (active or passive) and/or utility purposes”.

- The District will have until January 15, 2020 to purchase their ownership interest in the Property. If the District fails to purchase the Property for any reason, then the Agreement terminates, and the City may dispose of any portion of the Property not required for the water right;

- The District will assume all costs associated with maintenance and operation of the Property (except for costs associated with the water right).

- If the District elects to continue to operate the Little Store on the Property, the District will be entitled to all profits from such operation to offset costs associated with maintenance of this Property.

**Conclusion**
The attached Agreement is the latest partnership between the City and the District which reflects the benefits of governmental agencies cooperating for a common good. The District had identified the area including the Property as a “park dessert” and has been keenly interested in acquiring a new park in this area. The City has been actively seeking a new mitigation source when it learned Sallal failed to reserve any of its existing water for the City. Staff recommends Council approve the Agreement.

**COMMITTEE REVIEW AND RECOMMENDATION:** This item was discussed at the September 4, 2018 Finance and Administration Council Committee meeting and was recommended for approval.

**RECOMMENDED ACTION:** **MOTION** to approve AB18-114, authorizing an Interlocal Agreement Between the City of North Bend and Si View Metropolitan Park District for Ownership, Maintenance, Scheduling and Operation of the Cascade Golf Course Property, in a form and content acceptable to the City Attorney.

**RECORD OF COUNCIL ACTION**

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INTERLOCAL AGREEMENT
BETWEEN THE CITY OF NORTH BEND AND SI VIEW
METROPOLITAN PARK DISTRICT
FOR OWNERSHIP, MAINTENANCE, SCHEDULING AND
OPERATIONS OF CASCADE GOLF COURSE PROPERTY

THIS AGREEMENT is dated effective the 15th day of November 2018 and is made
between the City of North Bend (the “City”) and Si View Metropolitan Park District (the
“District”).

I. RECITALS

WHEREAS, the City is a municipal corporation of the State of Washington, organized
and operating under the Optional Municipal Code, Title 35A RCW; and

WHEREAS, the District is a municipal corporation of the State of Washington, organized
and operating under 35.61 RCW; and

WHEREAS, this Agreement is made under the authority of the Interlocal Cooperation
Act, Chapter 39.34 RCW; and

WHEREAS, the City and the District are stewards of public lands in the City, and the
parties recognize that through cooperation, these publicly-held lands can be used to meet broader
community needs for recreation and open space than either party can provide separately; and

WHEREAS, the City and District have reached an agreement regarding joint use of a
portion of the Cascade Golf Course consisting of approximately 28 acres located at 14303 436th
Ave #SE, North Bend WA consisting of a portion of an existing golf course; the Little Store, a
convenience store; a water right and pump; and a parking lot and legally described in Exhibit A
attached hereto and incorporated herein by this reference (“Property”).

WHEREAS, the Kusak Tree Farm is located adjacent to the Property and consists of
approximately 50 acres of heavily treed property abutting the South Fork of the Snoqualmie
River (Kusak Property);

WHEREAS, the Kusak Property has filed an application with the King County
Department of Environmental and Planning Review to subdivide and develop the Kusak
Property into 11 or more residential building lots;

WHEREAS, the City and District wish to seek grants and other funding to preserve as
open space the Kusak Tree Farm and any other adjacent properties to the Property.

WHEREAS, this Agreement will provide for the transfer of an undivided tenant in
common interest in the Property to the District, for the District’s maintenance and operation of
the Property, and joint ownership of the Property by the City and the District;
NOW, THEREFORE, it is agreed by and between the City and the District as follows:

II. AGREEMENT

1. Scope and Purpose.
   a. Purpose. The purpose of this Agreement is the joint ownership, development, maintenance, scheduling and operation of the Property.
   b. Joint Use of Property. The parties agree that the Property and its improvements are intended to be used jointly for recreation and utility purposes for the benefit of the District and the City at large.
   c. Water Rights. The parties agree that the City shall have the primary right to ROE _______________ as now existing or hereinafter amended or expanded, providing approximately 33 acre feet a year and primary right to the pond holding approximately 10’ of water to use such water for mitigation purposes for its Centennial Well ROE G1-26617 (“Water Right”). If the District can use such Water Right for landscape irrigation purposes consistent with whatever conditions imposed by Department of Ecology (DOE) on the City’s use of the ROE, then the District may also use this Water Right so long as such use is not inconsistent with the City’s use and does not violate any requirement of DOE. In addition to the Water Right, Sallal memberships No. 000168 has been partially purchased by the prior owner and the District may perfect this membership and use this potable water for any future park development on the Property.
   d. Recreation Improvements. The parties agree that the Property will not be used for purposes other than camping and recreation except as otherwise described in this Agreement. The District will conduct all master planning and make all decisions in connection with recreational development of the Property. As part of the District’s Master Planning process, the District will include a briefing to the City’s Park Commission.

2. Scheduling and Use. The District shall manage and schedule the use of all Property amenities other than the Water Right described in subsection 1(c) above. The City and District sponsored programs shall have priority scheduling over other entities. To ensure scheduling priority, the City and the District shall be required to reserve usage of the Property at least 30 days prior to a City or District event date. If fees are charged to users of the Property, then District and City users shall receive a lower and more favorable rate than non City/District users, as determined by the District.

3. Maintenance, Repairs, and Operation. Effective November 15, 2018, the District shall be responsible for all regular, customary and ongoing maintenance, repairs, and operation of the Property, including but not limited to, mowing, irrigation, landscape maintenance, supplies and refuse collection. The District may elect to continue to
operate the Little Store and if it elects to continue such operations then both expenses and all income shall belong to the District.

4. **Utility Expenses.** The District will pay utility costs covering the Property except for any utility cost associated with the pump or water right described in Section 1(c) of this Agreement. Both parties agree to use best efforts to minimize increases to utility costs when making any improvements made to the Property.

5. **City and District Contributions.**
   
a. **Purchase Price for Property.** The City agreed to pay Two Million and Four Hundred Thousand Dollars and No/100 ($2,400,000.00) to purchase the Property pursuant to that certain Purchase and Sale Agreement dated July 11, 2018 with a closing date of November 29, 2018 (“Purchase Agreement”).

b. **District Contribution.** The District will pay the City One Million and Eight Hundred Thousand Dollars and No/100 ($1,800,000) for a 75% tenant in common ownership interest in the Property. Upon such payment, the City will record the Bargain & Sales Deed attached as Exhibit A conveying such 75% tenant in common interest to the District.

c. A Restrictive Covenant shall be recorded within the legal description of this conveyance as follows:

   “The City and District covenant that the Properties shall continue to be used for open space, park, recreation, or utility purposes. In the event the City or the District elects to sell one or more of the Properties for any reason, the other party shall have a right of first refusal to purchase the Properties on the same terms and conditions of a bona fide offer received by the selling party”.

d. **Failure of District to Make Contribution.** In the event the District’s November 2018 bond measure fails, then the City will not convey the tenant in common interest until such time as the District has available funds to purchase the 75% ownership interest in the Property. In the event the District fails to purchase this interest on or before January 15, 2020, the City may terminate this Agreement and dispose of any portion of the Property not required by the City for the Water Right.

e. **Park Impact Fees.** The City may wish to contribute park impact fees to improvements to the Property from time to time. The parties will agree on such contributions prior to the City making such contributions but no further amendments to this Agreement shall be required other than a Motion by the North Bend City Council authorizing such distribution and inclusion of such expenditure in North Bend’s budget.

f. **Grants.** The parties may collectively or independently apply for grants for the Property. So long as the City Council or District Board has authorized staff to make application for such grant and for the funds to be expended on the Property, then the parties agree to approve the transfer of any funds to the District to be used for improvements to the Property consistent with the terms of such grants. No further amendments to this Agreement will be required for such applications or transfer of grant funds.
6. Kusak Tree Farm/Adjacent Property. The City and District shall apply for the King County conservation futures grant in order to protect the Kusak Property as open space and ensure access to the river for recreational purposes.

7. Boundary Review Board Application. The City and District shall apply to the Boundary Review Board to change the City’s urban growth boundary to include the Property for the purpose of ensuring protection of the Property.

8. Independent Contractor. Each party to this Agreement is an independent contractor with respect to the subject matter herein.

7. Indemnification.

a. The City shall indemnify, defend, and hold harmless the District, its agents, and employees from and against any and all liability arising from injury or death to persons or damage to property resulting in whole or in part from negligent acts or omissions of the City, its agents, servants, officers, or employees, irrespective of whether in connection with such act or omission it is alleged or claimed that an act of the District, its agents, or employees caused or contributed thereto from the City’s use of the Water Right. In the event that the District shall elect to defend itself against any claim or suit arising from such injury, death, or damage, the City shall, in addition to indemnifying and holding the District harmless from any liability, indemnify the District for any and all expenses incurred by the District in defending such claim or suit, including reasonable attorney’s fees.

b. The District shall indemnify, defend, and hold harmless the City, its agents, and employees from and against any and all liability arising from injury or death to persons or damage to property resulting in whole or in part from negligent acts or omissions of the District, its agents, servants, officers, or employees, irrespective of whether in connection with such act or omission it is alleged or claimed that an act of the City, its agents, or employees caused or contributed thereto from the operation of a park, camp ground or other recreational use on the Property. In the event that the City shall elect to defend itself against any claim or suit arising from such injury, death, or damage, the District shall, in addition to indemnifying and holding the City harmless from any liability, indemnify the City for any and all expenses incurred by the City in defending such claim or suit, including reasonable attorney’s fees.

8. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement that prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.
9. **Assignability.** The rights, duties, and obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

10. **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.

11. **Entire Agreement and Modifications.** This Agreement constitutes the entire Agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. No provision of this Agreement may be amended or modified except by written agreement signed by the parties.

12. **Term and Termination.** The term of this Agreement shall commence on the date first shown above and shall be in effect for a period of ten (10) years unless terminated pursuant to Section 5(c). This Agreement will automatically renew for successive ten (10) year terms.

13. **Filing with Auditor and Interlocal Cooperation Act Compliance.** This Agreement shall be filed with the King County Auditor or listed by subject on the City’s website or other electronically retrievable public source, pursuant to RCW 39.34.040. No separate legal entity has been created pursuant to this Agreement, and the City and District do not intend to jointly acquire or hold title property the under the terms of this Agreement. The disposition of the Property at the end of the term of the Agreement is provided for in Section 9.

14. **Insurance.**

   a. The City shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of $1,000,000 per occurrence/aggregate for personal injury and property damage, and name the District as an additional insured thereon. This requirement shall be deemed satisfied by evidence of the City’s membership in a municipal self-insurance pool, including evidence of limits of coverage, exclusions, and limits of liability satisfactory to the District.

   b. The District shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of $1,000,000 per occurrence/aggregate for personal injury and property damage, and name the City as an additional insured thereon. This requirement shall be deemed satisfied by evidence of the District’s membership in a municipal self-insurance pool including evidence of limits of coverage, exclusions, and limits of liability satisfactory to the City.
15. **Dispute Resolution.** If a dispute arises between the parties concerning the performance of any provision of this Agreement or the interpretation thereof, the parties agree to follow the procedures set forth herein. It is the goal of the parties to resolve differences as early in this step-process as possible.

   a. **Step One – Informal Discussions.** Each party shall designate a representative, and the designated representatives shall meet and attempt to resolve the dispute. This step may involve more than one meeting.

   b. **Step Two – Written Notification and Resolution.** If informal discussions are not successful, then the aggrieved party shall mail, via certified mail, written notice of the dispute to the other party as set forth in Section 23 of this Agreement. The notice shall set forth the nature of the dispute and the desired outcome. A written response shall be provided by the recipient of the notice within ten (10) days’ receipt of the certified, mailed notice. The response to the notice shall include the respondent’s version of the dispute and a proposed resolution. The parties shall then meet within (10) business days following respondent’s answer to determine whether the dispute can be resolved amicably. If the dispute is amicably resolved, the parties shall sign a memorandum of understanding with regards thereto.

   c. **Step Three – Mediation.** If the parties are unable to resolve their differences at Step Two, the parties will endeavor to settle the dispute by mediation under such mediation rules as shall be agreeable to the parties. Mediation shall be non-binding but a condition precedent to having the dispute resolved pursuant to Step Four - Arbitration, below. Mediation shall commence, unless otherwise agreed, within thirty (30) days of a party’s written request to the other party for mediation of a dispute. Any resolution of the dispute at this stage shall be reduced to writing and, if the resolution involves an interpretation of the Agreement herein, the Agreement herein shall be amended to include the interpretation.

   d. **Step Four – Arbitration.** If the parties are unable to resolve their differences at Step Three, the dispute will be resolved by arbitration. A written notice requesting arbitration must be delivered to the other party. The parties will select an arbitrator by mutual agreement. If the parties cannot agree on an arbitrator within 10 working days after service of the arbitration request, then the dispute shall be referred to Judicial Arbitration and Mediation Services, Inc. (“JAMS”), and an arbitrator will be selected either by agreement of the parties or at random by JAMS if the parties cannot agree upon an arbitrator.

16. **Discrimination Prohibited.** Neither party shall discriminate against any employee or any person seeking service under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or the presence of any sensory, mental or physical handicap.
17. **Applicable Law, Venue, and Attorney’s Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event of any suit, arbitration, or other proceeding instituted to enforce any term of this Agreement, the venue shall be exclusively in the Superior Court for King County, Washington, and the substantially prevailing party shall be entitled, in addition to any other relief, to an award of attorney’s fees, expert witness fees, and costs of suit.

18. **Administrators/Notices.** The Administrators listed below, or their successors, shall be the contact persons responsible for all notices and communications regarding the performance under this Agreement.

**CITY OF NORTH BEND**

Londi Lindell  
City Administrator  
P.O. Box 896  
North Bend, WA 98045

**SI VIEW M.P.D.**

Travis Stombaugh  
Executive Director  
P.O. Box 346  
North Bend, WA 98045

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces set forth below.

**CITY OF NORTH BEND**

By: ___________________________  
Kenneth G. Hearing, Mayor

Date: _________________________

Attest: _________________________  
Susie Oppedal, City Clerk

**SI VIEW METROPOLITAN PARK DISTRICT**

By: ___________________________  
Executive Director, Travis Stombaugh

Date: _________________________

Attest: _________________________

Approved As To Form:

Michael R. Kenyon, City Attorney  
__________________________, District Attorney
SUBJECT: A Motion Authorizing a Fourth Amendment to the Torguson Park ILA with Si View MPD Relating to Grant Monies

Cost Impact: N/A
Fund Source: N/A
Timeline: Immediate
Attachments: Fourth Amendment

SUMMARY STATEMENT:

The City of North Bend (the “City”) entered into an Interlocal Agreement (ILA) with Si View Metropolitan Park District (the “District”), effective January 1, 2016, regarding joint use of Torguson Park with the maintenance and operation of the Park by the District, and subsequent joint ownership of the Park by the City and the District.

The City and District now desire to amend the agreement to add language that allows grant funds to be transferred to the District from the City without amending the ILA for each grant. The District is responsible for all regular, customary and ongoing maintenance, repairs and operation of Torguson Park, however the City has historically, and will likely in the future continue to write grants for park improvements at Torguson as either a co-applicant or lead applicant. Depending on the grant source it is sometimes necessary for the City to take the lead as a municipality. Therefore, the City and the District wish to amend the ILA so that money can be transferred from the City to the District upon receipt of future grant monies.

The first grant money this would apply to is $200K the City received from King County Youth & Amateur Sports Grant (YASG) for improvements to Torguson Park outfields. The general scope of the project includes providing irrigation, drainage, turf improvements, and leveling of 4 baseball/softball outfields that are also used for soccer. The improvements will make the fields safer and increase the carrying capacity of each field for multi-season use. The City received a grant for $200K from the YASG and will transfer these funds to the District who will be managing and completing the park improvements.

COMMITTEE REVIEW AND RECOMMENDATION: This item will be discussed at the September 18th Community and Economic Development Committee. It was not yet reviewed at the time this agenda bill was provided for the Council packet.

RECOMMENDED ACTION: MOTION to approve AB18-115, authorizing a fourth amendment to the ILA with Si View MPD for Torguson Park, in a form and content acceptable to the City Attorney, and authorizing the transfer of $200,000 received from the YASF Grant to Si View MPD.
FOURTH AMENDMENT TO INTERLOCAL AGREEMENT
BETWEEN THE CITY OF NORTH BEND AND SI VIEW METROPOLITAN PARK
DISTRICT FOR DEVELOPMENT, MAINTENANCE, SCHEDULING AND
OPERATIONS OF TORGUSON PARK

This Fourth Amendment is entered into this ___ day of September, 2018 between the City of North Bend, a Washington municipal corporation (the “City”) and Si View Metropolitan Park District, a Washington park district (the “District”).

A. The City and the District entered into an Interlocal Cooperation Agreement on January 1, 2016 (“Torguson Agreement”) providing for the joint use, maintenance and operation and eventual joint ownership of certain City owned real estate commonly known as Torguson Park (“Park”) consistent with a Master Plan adopted by the City Council (“Master Plan”);

B. The City and the District executed a second amendment to the Torguson Agreement to transfer grant received by the City to the District in order to construct improvements to the Park;

C. The City wishes to continue to apply for grants for improvements to the Park consistent with the Master Plan;

D. The District is responsible under the Torguson Agreement for all regular, customary, and ongoing maintenance, repairs, and operation of the Park.

E. The City and the District wish that as the City receives grant funds for improvements to the Park, that the City may transfer such funds to the District to construct and execute such improvements without further amendment of the Torguson Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Transfer of Grant Funds. Upon receipt of applicable grant funds for improvements to Torguson Park, the City shall transfer such funds to the District and the District shall be solely responsible for using such funds for making eligible improvements to the Park. Once any applicable improvements are constructed, the District will maintain such improvements at its sole expense.

2. Full Force and Effect. Except as amended by this Amendment, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment as of the day and year first written above.
SUMMARY STATEMENT:

In recent years, City of North Bend staff have been receiving requests from residents and City Council to decrease the number of large trucks driving in downtown North Bend, principally for a 2-block segment of North Bend Way between State Route 202 (Bendigo Boulevard) and Ballarat Avenue NE. Other local residential access streets have also seen the number of large trucks increase during the past several years due to significant development and growth happening in the City. Attached is the Ordinance containing the proposed changes to NBMC 10.10 regarding Truck Routes, followed by the current language in the NBMC. The proposed ordinance will repeal and replace the NBMC truck route language and make it more comprehensive than the existing language.

The benefits of requiring stricter and more comprehensive truck route language is as follows:

1. Allows City to post improved truck restriction signage;
2. Should result in more trucks using I-90 rather than City arterial streets;
3. Should result in downtown streets being less congested;
4. Creates a quieter and more livable downtown with less disruptive truck noise and exhaust;
5. Improves public safety;
6. Enables City police officers to more easily enforce violators; and
7. Provides more detailed definitions on trucks and exclusions.

This agenda item was discussed at a public hearing on August 21, 2018 and following public comment, the City Council directed staff to consult with impacted business owners and directed the ordinance return to the Transportation and Public Works (TPW) Committee for further discussion on September 12, 2018. After a lengthy discussion at the September 12th TPW Committee meeting, the following changes were recommended by the TPW Committee:

1. Park Street, between SR-202 and North Bend Way, shall not be included as a new truck route;
2. East Fourth Street, between SR-202 and Ballarat Avenue, shall not be included as a new truck route;
3. NW 8th Street, between West North Bend Way and SR-202, shall be included as a truck route.

City staff recommend the NBMC Truck Route Amendments be approved. If this is approved, then the City’s Public Works Department will provide Manual of Uniform Traffic Control Devices (MUTCD) traffic signage at certain intersections.

COMMITTEE REVIEW AND RECOMMENDATION: This item was brought forth to the July 10,
City Council Agenda Bill

2018 Transportation and Public Works Committee (TPW) meeting. This item was brought back to the TPW Committee on September 12, 2018 for further discussion. TPW recommends this ordinance be presented for approval and placement on the Main Agenda.

RECOMMENDED ACTION: MOTION to approve AB18-116, an ordinance repealing and replacing NBMC Section 10.10 regarding Truck Routes, as a first and final reading.

RECORD OF COUNCIL ACTION

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<tr>
<th>Meeting Date</th>
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<tr>
<td>August 21, 2018</td>
<td>AB15-105 - Public Hearing &amp; Agenda Item Remanded to Committee</td>
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ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, REPEALING AND REPLACING NORTH BEND MUNICIPAL CODE CHAPTER 10.10 RELATING TO TRUCK ROUTES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, North Bend Municipal Code ("NBMC") Chapter 10.10 authorizes truck traffic within the City Limits of the City of North Bend ("City") along designated routes; and

WHEREAS, amendments to the currently designated truck routes are desired by the public; and

WHEREAS, the City Council desires to amend NBMC Chapter 10.10 to improve certainty for truck drivers and to improve public safety, traffic congestion, and to help preserve City streets and roads; and

WHEREAS, it is necessary to establish designated truck routes because non-designated truck routes will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted; and

WHEREAS, a public hearing on the proposed repeal and replacement of NBMC Chapter 10.10 was held at City Council Meetings on August 21, 2018;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC Chapter 10.10 (Truck Routes), Repealed: Existing North Bend Municipal Code Chapter 10.10 is hereby repealed in its entirety.

Section 2. New North Bend Municipal Code Chapter 10.10 (Truck Routes), Adopted: New North Bend Municipal Code Chapter 10.10 is hereby adopted to read as follows:

Chapter 10.10
TRUCK ROUTES

Sections:
10.10.010 Definitions.
10.10.020 Application of regulation.
10.10.030 Exceptions.
10.10.040 Truck route established.
10.10.050 Truck traffic in the City – Outside origin.
10.10.060 Truck traffic in City – Inside origin.
10.10.070 Maps.
10.10.080 Signs.
10.10.090 Weigh-in.
10.10.100 Violation – Penalty.
10.10.010 Definitions.
For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. “Shall” is always mandatory and not merely directory:

A. “City” is the City of North Bend.

B. “Deviating truck” is a truck which leaves and departs from a truck route while traveling inside the City.

C. “Person” is any person, firm, partnership, association, corporation, company, or organization of any kind.

D. “Truck” is any vehicle designed or operated for the transportation of property, and whose body weight or whose combined body and load weight or whose rated capacity exceeds 15,000 pounds and/or exceeding 96 inches in width, or a truck-tractor, truck and trailer combination, or truck and semi-trailer combination, and all vehicles transporting radioactive, explosive or other hazardous cargo.

E. “Truck route” is a way over certain streets, as designated in this chapter, over and along which trucks coming into and going out of the City must operate.

10.10.020 Application of regulation.
All trucks within the City shall be operated only over and along the truck routes established in this chapter and on the other designated streets over which truck travel is permitted.

10.10.030 Exceptions.
This chapter shall not prohibit:

A. Operation on Street of Destination. The operation of trucks upon any street where necessary to the conduct of business at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point;

B. Emergency Vehicles. The operation of emergency vehicles upon any street in the City;

C. Public Utilities. The operation of trucks owned or operated by the City, public utilities, any contractor or materialman, while engaged in the repair, maintenance or construction of streets, street improvements, or street utilities within the City;
D. Detoured Trucks. The operation of trucks upon any officially established detour in any case where such truck could lawfully be operated upon the street for which such detour is established.

10.10.040 Truck route established.
A. There is established within the City the following truck routes:

1. I-90;
2. State Route 202 (Bendigo Boulevard);
3. North Bend Way from the western city limits to the eastern city limits, except between Bendigo Boulevard and Ballarat Avenue;
4. 436th Avenue NE;
5. 468th Avenue NE;
6. NW 8th Street from West North Bend Way to SR-202;
7. South Fork Avenue SW;
8. SW Mount Si Boulevard;
9. Ballarat Avenue North and NE;
10. NE 12th Street (SE 108th Street) from Ballarat Avenue to Pickett Avenue NE;
11. Boalch Avenue NW;
12. SE Mount Si Road; and
13. SE Middle Fork Road, east of 468th Avenue;

B. All trucks entering the City for destination points outside the City shall operate only over and along the routes designated in this section.

10.10.050 Truck traffic in the City – Outside origin.
A. One (1) Inside Destination Point. All trucks entering the City for a destination point in the City shall proceed only over an established truck route and shall deviate only at the intersection with the street nearest to the designation point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest permissible route.

B. Multiple Inside Destination Points. All trucks entering the City for multiple destination points shall proceed only over established truck routes and shall deviate only at the intersection with the street nearest to the first destination point. Upon leaving the first
destination point, a deviating truck shall proceed to other destination points by the shortest direction. Upon leaving the last destination point, a deviating truck shall return to the truck route by the shortest permissible route.

10.10.060 Truck traffic in City – Inside origin.
A. Outside Destination Point. All trucks, on a trip originating in the City, and traveling in the City for a destination point outside the City, shall proceed by the shortest direction over streets on which such traffic is permitted to a truck route as established in this chapter.

B. Inside Destination Points. All trucks on a trip originating in the City, and traveling in the City for destination points in the City shall proceed as provided in NBMC 10.36.050.

10.10.070 Maps.
The City Engineer shall keep and maintain accurate maps setting out truck routes and streets upon which truck traffic is permitted; the maps shall be kept on file in the office of the City Engineer and shall be available to the public.

10.10.080 Signs.
The Public Works Director or City Engineer shall cause appropriate signs to be posted and created along the truck routes to designate and locate said truck routes. The Chief of Police and police department shall monitor all truck routes and those streets upon which truck traffic is prohibited to be clearly sign-posted to give notice that this chapter is in effect.

10.10.090 Weigh-in.
The Chief of Police or other City police officer shall have the authority to require any person driving or in control of any commercial vehicle, not proceeding over a truck route or street over which truck traffic is permitted, to proceed to any public or private scale available for the purpose of weighing and determining whether this chapter has been complied with.

10.10.100 Violation – Penalty.
Violation of or failure to comply with any of the penal provisions of this chapter shall be punished by a fine not to exceed $250.00. Each instance of noncompliance shall be considered a separate violation. In addition to any penalty for violation of the provisions of this chapter, such violator shall be liable in a civil action instituted in the name of the city for any damages occasioned to any city street as the result of such violation.

Section 3. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or
federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


CITY OF NORTH BEND:  

______________________________
Kenneth G. Hearing, Mayor

APPROVED AS TO FORM:

______________________________
Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published:  
Effective:

______________________________
Susie Oppedal, City Clerk
Current NBMC

Chapter 10.10
TRUCK ROUTES

Sections:

10.10.010 Designated – Truck routes.
10.10.020 Signs – Posting required.

10.10.010 Designated – Truck routes.

A. Authorized Routes. All trucks, truck-tractors, truck and trailer combinations or truck and semitrailer combinations over 96 inches in width and/or over 25,999 pounds gross weight, and all vehicles transporting radioactive, explosive or other hazardous cargo shall be restricted to the state highway system or to one of the routes authorized in subsection B of this section, while traveling to or from destinations within the city or to or from destinations within one-half mile of the city limits and wherever practical, shall take the most direct arterial route to or from the truck routes while traveling to or from said destination.

B. The following streets are designated as truck routes:

1. Bendigo Boulevard S (SR 202):
   a. Starting at Exit 31, inclusive, thence north to the intersection of W. Fourth Street; thence
   b. Westerly from the intersection of Bendigo Blvd S and W Fourth Street to North Bend’s western city limit.

2. Boalch Avenue NW:
   a. Starting at the intersection with Bendigo Boulevard S (SR 202), inclusive; thence
   b. North and westerly to North Bend’s western city limit.

3. North Bend Way – entire road within the City of North Bend:
   a. Western city limit to the Eastern City Limit.

4. Ballarat Avenue NE:
   a. Starting at the intersection with East North Bend Way; thence
   b. North to NE 12th Street (SE 108th Street).

5. NE 12th Street (SE 108th Street):
   a. Starting at the intersection with Ballarat Avenue NE, inclusive; thence
   b. Easterly to and including the intersection with Pickett Avenue NE (428th Ave SE) to the city of North Bend’s northern city limit.

6. 436th Avenue SE – that portion within the North Bend city limits:
   a. Starting at the intersection with SE North Bend Way inclusive, thence south.

7. 468th Avenue SE:
Current NBMC

a. Starting at Exit 34 from North Bend Way, that portion within the North Bend city limits, thence northerly SE Middle Fork Road as posted.

8. SE 146th Street:
   a. Starting at 468th Avenue SE easterly to the North Bend city limits.

9. SE 144th Street:
   a. Starting at 468th Avenue SE easterly to the North Bend city limits. (Ord. 1497 § 3 (part), 2013: Ord. 910 § 4, 1993).

10.10.020 Signs – Posting required.
A. The director of public works shall cause appropriate signs to be posted and created along the truck routes described in NBMC 10.10.010(B) to designate and locate said truck routes.

B. Unlawful Acts. When signs have been posted, it shall be unlawful for any person to operate a truck-tractor, truck and trailer combination or truck and semitrailer combination or a combination thereof exceeding 25,999 pounds gross weight upon the public streets of the city not designated as truck routes except in connection with any permitted construction, while loading or unloading goods or services, or during any emergency event when the state has closed Interstate 90. (Ord. 1497 § 3 (part), 2013: Ord. 910 § 5, 1993).