

**PRELIMINARY AGENDA  
CITY OF BOARDMAN - CITY COUNCIL MEETING  
BOARDMAN CITY HALL - COUNCIL CHAMBERS  
7:00 P.M. JANUARY 2, 2024**

- **CALL TO ORDER**
- **FLAG SALUTE**
- **ROLL CALL/EXCUSED ABSENCES**
- **APPROVAL OF MINUTES**
  - December 2023 – Regular Meeting
- **FORMAL PROCEEDINGS**
  - Public Hearing – Boardman Development Code Amendment to Section 3.4.000.B
- **FINANCIAL REPORT**
  - Month Ending October 2023
  - Month Ending November 2023
- **PUBLIC COMMENT**

- **PREARRANGED PRESENTATION**
  - Morrow County Administrator
- **OTHER PUBLIC COMMENT**

INVITATION FOR PUBLIC COMMENT – The mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The mayor may limit comments to 3 minutes per person for a total of 30 minutes. Please complete a request to speak card prior to the meeting. Speakers may not yield their time to others.

- **ACTION ITEMS**
  - **RESOLUTIONS**
    - 1-2024 – Declaring Surplus Property – 2015 Ford Interceptor Utility
    - 2-2024 – Decrease Contingency and Increase 2022-24 Expenditures for Personnel Services, Materials and Services and Capital Projects
  - **OTHER BUSINESS**
    - City Council
      - Election of Council President
    - Budget Committee
      - Appointment of '24-'25 Budget Officer
      - Approval of '24-'25 Budget Calendar
      - Re-Appointment of Budget Committee Members
        - Dori Drago – Term Ending 12/31/23
        - Stephen Fuss – Term Ending 12/31/23
        - Lisa Mittelsdorf – Term Ending 12/31/23
    - Planning Commission
      - Re-Appointment of Planning Commissioners
        - Ragna TenEyck – Term Ending 12/31/23
        - Zack Barresse – Term Ending 12/31/23
- **DOCUMENT SIGNATURES**
- **REPORTS, CORRESPONDENCE AND DISCUSSION:**
  - **POLICE REPORT**
  - **BUILDING DEPARTMENT REPORT**
  - **PUBLIC WORKS DEPARTMENT REPORT**
  - **CITY MANAGER**
  - **COUNCILORS**
  - **MAYOR**
- **ADJOURNMENT**

Zoom Meeting Link: <https://us02web.zoom.us/j/2860039400?omn=89202237716>

This meeting is being conducted with public access in-person and virtually in accordance with Oregon Public Meeting Law. If remote access to this meeting experiences technical difficulties or is disconnected and there continues to be a quorum of the council present, the meeting will continue.

The meeting location is accessible to persons with disabilities. Individuals needing special accommodations such as sign language, foreign language interpreters or equipment for the hearing impaired must request such services at least 48 hours prior to the meeting. To make your request, please contact a city clerk at 541-481-9252 (voice), or by e-mail at [city.clerk@cityofboardman.com](mailto:city.clerk@cityofboardman.com).

**BOARDMAN CITY COUNCIL – REGULAR MEETING MINUTES – December 5, 2023**  
**BOARDMAN CITY HALL COUNCIL CHAMBERS AND VIA ZOOM**

Mayor Keefer called the meeting to order at 7:00 PM and led the Pledge of Allegiance.

Councilors Present:    ☒ Mayor Paul Keefer                      ☒ Ethan Salata                      ☒ Heather Baumgartner  
                                 ☒ Brenda Proffitt                      ☒ Cristina Cuevas                      ☒ Richard Rockwell  
                                 ☒ Karen Pettigrew

Staff Present:    ☒ Brandon Hammond, City Manager                      ☒ Amanda Mickles, City Clerk  
                         ☒ Marta Barajas, Finance Director                      ☒ Rolf Prag, Public Works Director  
                         ☒ Glenn McIntire, Building Official                      ☒ Jackie McCauley, Building Clerk  
                         ☒ Rick Stokoe, Police Chief

Audience: George Shimer – Boardman Parks and Rec District, Monica Coleman, John Coleman, Hadley Coleman, Pat Andreason, Noah Reaves, Ivan Escobedo, Jeffrey Mickles, Mikayla Mickles, Danielle Mickles, Justin Lay, Bella Brons, Kym Landstrom, Cheryl Tallman. Via Zoom: Blaise Exon – Jacobs engineering, Erin Winterton - ODOT, Well Water user, L. Anders

**Approval of Minutes**

November 7, 2023 Regular Meeting

Councilor Baumgartner moved to approve the minutes of the November 7, 2023 regular meeting as presented. Councilor Cuevas seconded the motion.

All were in favor.

Motion passed 7-0.

**Financial Report**

Ending September 2023

Finance Director Barajas stated revenue has slowed this month, except for the building department; there is still a lot of building and construction improvements going on in the area. Expenses show the Capital Improvement Fund and water improvement projects are moving on schedule. Regarding the General Fund, this year the City anticipated moving online so some conversions have begun. This change began by moving the building department online in May. The City is now working on converting accounting, H/R, back flow data sheets, safety, training, and updating the city's website. This will make processes and information more accessible to the community and employees. Interest rates are slowly and steadily increasing.

**Public Comment**

Prearranged Presentation

Windy River

Student Body President and Vice President said Windy River celebrated World Kindness Day with Mr. Hammond speaking at their assembly about important skills in life. They also participated in other school wide activities such as coloring contests and dress up days. They are currently hosting a canned food drive.

Motto Contest Winner

The City Council is working on trying to promote community interest into activities happening in the city. Changing the city motto was one idea. There were 4 separate entities where applicants could submit their ideas, a total of 70 submissions and 47 participants were collected. Mayor Keefer thanked the donors for their financial support to the winners: Family Dollar, La Reyna Fruteria, Jumpstart Java, C & D, Harvest Town Foods, Sinclair, and Café Cultura for a total of \$260 in total awards. Mr. Hammond will be in contact with further details on the next step of the process.

Community winner – Noah Reaves – “Where potential comes to grow”

Riverside Jr/Sr High winner – Seth Hammond – “Beauty around the bend”

Windy River Elementary winner – Mikayla Mickles – “Where river meets opportunity”

Sam Boardman Elementary winner– Hadley Coleman – “Small town – big dreams”

#### ODOT ADA Ramps – Blaise Exon

Blaise Exon, Project Manager – Jacobs Engineering and Erin Winterton, Project Manager – ODOT, presented the project updating ADA pedestrian ramps at the North and South freeway intersections. Improvements are in progress as the current ramps are not conforming to ADA requirements. Advertisement of the project will begin in March or April, work will begin late summer 2024 and plan to finish late summer 2025. The proposed improvements were discussed, minimal traffic impacts, pedestrians will be routed around work sites. There was discussion around crosswalks going East to West across Main Street at the intersections and being a safety concern. The project managers will set up a meeting with the City and ODOT to determine if they can permanently close those crosswalks.

#### Boardman Parks and Rec District

George Shimer, Boardman Parks and Rec District CEO gave a report on current and upcoming events happening within the Parks and Rec District.

### **Action Items**

#### Ordinances

##### 3-2023 Council Rules

Councilor Baumgartner moved to approve the reading by title only of Ordinance No. 3-2023 Council Rules.

Councilor Rockwell seconded the motion.

All were in favor.

Motion passed 7-0.

City Manager Hammond read the Ordinance by title only.

Councilor Baumgartner moved to adopt Ordinance No. 3-2023, and ordinance establishing council rules and repealing Ordinance No. 3-2004. Councilor Rockwell seconded the motion.

All were in favor.

Motion passed 7-0.

#### Resolution

##### 21-2023 Canada Goose Taking Resolution

Councilor Baumgartner moved to approve a resolution to establish a special Canada Goose taking in specific areas under the supervision of the landowner on tax lot 407 of Morrow County tax map 4N 25 16, and tax lot 101 of Morrow County tax map 4N 25 21. Councilor Cuevas seconded the motion.

All were in favor.

Motion passed 7-0.

#### Other Business

January City Council Meeting Date January 2, 2023 will remain as scheduled.

#### Appointment of NEACT Board Member

Mayor Keefer appointed City Manager Hammond as the city's voting board member to the North East Area Commission on Transportation Board (NEACT).

### **Reports, Correspondence and Discussion**

#### Police Report

Police Chief Stokoe stated DUI's are still high and they are paying overtime and working hard to address the issues. He clarified the reason ODOT is updating crosswalks is due to a lawsuit against them as many crosswalks are out of compliance; ODOT is addressing the issues.

### Building Department Report

Building Official McIntire offered the report and asked for any questions. No questions were asked. North Morrow Times will be publishing the building permit report every month.

### Public Works Department Report

Public Works Director Prag was on hand for any questions. No questions were asked.

### City Manager

- City Manager Hammond expressed his gratitude to the public works department for decorating the city for Christmas. Also thanked the City Council for their support with his transition into his position.
- The City of Boardman Christmas Party is December 15th, plans are finalized and RSVPs have been received.
- The Capital Improvement Plan will be presented in the March Council. Mike Lees, the City's engineer, will have it fully designed and done in time for the budget.
- SE Front Street pre-bid meeting was well attended, so hopefully there will be some competitive bids.
- The Septage Receiving Station has been altered to include a screen to help reduce the amount of garbage going into the lagoons. Once the lagoons are clear of garbage, it can be pumped into the fields which is more cost effective.
- Wilson Road and Faler sidewalk project, using the \$400,000 ARPA funds. There will be a time when discussion will be held regarding mailboxes as there are hundreds around the city that do not meet City standards.
- City Charter update projected time line and chart showing the current charter versus the League of Oregon City's (LOC) version has been provided in the packet. The LOC's version is clearly organized and worded differently. The City can decide how in-depth the changes should be. The idea is to start in March and start at 6:00 PM with a workshop to work through the updates by section. Knowing what needs to be addressed before hand will allow time to look up language change options. The goal is to have the Charter update completed by August 27, 2024 to be on the ballot in November. This will also include opportunities for community input. First meeting would be in February at 6:00 PM.

### Councilors

- Councilor Salata requested clarification as ODOT is being sued due to crosswalks not being compliant, and asked the plan to ensure City sidewalks meet regulations. City Manager Hammond stated as the City is doing sidewalk improvements, they will be addressed and improvements made as needed.
- Councilor Cuevas stated she appreciated all the input they received for the motto contest. One of her favorites was "We get it done".
- Councilor Rockwell expressed his gratitude to George Shimer for attending the meeting and his leadership of the Parks and Rec District; it has been such an improvement.
- Councilor Pettigrew asked who determines where mailboxes can go. City Manager Hammond stated the placement is determined by the city and the postmaster approves placement.

### Mayor

- Mayor Keefer stated he appreciates the Christmas decorations. There has been positive feedback on the nativity scene and lighted candy canes. As sidewalk improvement plans are accomplished, there will be options for the community regarding mailboxes. A mailbox in the middle of a sidewalk impedes the walk of pedestrians. He said it was exciting to see people in the meeting, and it was great seeing so many youth attend the meeting. He said as a Council, it would be wonderful to find ways to get families more involved.

**ADJOURNMENT 8:26 PM**



**PUBLIC NOTICE**  
**City of Boardman**  
**Land Use Hearing**

The City of Boardman City Council will hold the following hearing of public interest on Tuesday, January 2, 2024, at 7:00 p.m. at the Boardman City Hall, 200 City Center Circle, Boardman, Oregon 97818 in the Council Chambers. For information on meeting participation via Zoom please visit the City of Boardman's webpage at [www.cityofboardman.com](http://www.cityofboardman.com).

Amendment A-BDC-23-001: City of Boardman, applicant. This request is to amend Section 3.4.000 of the Boardman Development Code to allow the city to defer construction of certain road improvements until such time as the adjacent property develops. Criteria for approval are found at the BDC Chapter 4.7 Land Use District Map and Text Amendments. It is being processed as a Type IV decision with the final hearing before the City Council.

Opportunity to voice support or opposition to the above request or to ask questions will be provided. Failure to raise an issue in person or by letter or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on those issues.

Copies of the staff report and all relevant documents will be available on or before December 26, 2023. For more information, contact Carla McLane, Planning Official, at (541) 481-9252 or by email at [mclanec@cityofboardman.com](mailto:mclanec@cityofboardman.com).

Dated this 13<sup>th</sup> day of December 2023  
PUBLISHED: December 19, 2023  
Affidavit of Publication



## City of Boardman

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### MEMORANDUM

To: City Council  
cc: Brandon Hammond, City Manager  
From: Carla McLane, Planning Official  
RE: Amendment A-BDC-23-001  
Date: December 27, 2023

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This memorandum is provided to assist in your review and consideration of an amendment to the Boardman Development Code (BDC) that is intended to provide the City of Boardman flexibility in accomplishing public improvement projects prior to full development of adjoining lands. The need for the amendment was identified in a recent case at the Land Use Board of Appeals (LUBA) filed by Jonathan Tallman and 1<sup>st</sup> John 2:17 LLC. The amendment will provide the City additional flexibility citywide when future opportunities arise that allow the City to defer construction of ancillary or amenity improvements and allow the city to focus public investment on infrastructure (water, wastewater, and pavement).

The Planning Commission public hearing was held Wednesday, December 20, 2023, with the Planning Commission forwarding the amendment to you with a 'do adopt' recommendation on a 5 to 1 vote. Attached to this memorandum are the Planning Commission Findings of Fact with the following attachments: the proposed language as approved by the Planning Commission and a letter dated December 19, 2023, from Wendie Kellington of Kellington Law Group representing Jonathan Tallman. Also included in the record and available on the City's website is an oversize exhibit that is the entire record in 1<sup>st</sup> John 2:17 LLC v City of Boardman, LUBA No. 2022-062. This is the LUBA appeal in July 2022 in which Mr. Tallman appealed the city council's decision to approve construction of the loop roads east of Laurel Lane at the Port of Morrow Interchange.

Also attached immediately following this memorandum is the proposed amendment as approved by the Planning Commission and including a change recommended by the City Attorney to provide additional clarity related to the anticipated development of adjacent property.

Should you have any questions or want to discuss the proposed changes please feel free to reach out to me at City Hall at 541-481-9252 or by email at [mclanec@cityofboardman.com](mailto:mclanec@cityofboardman.com).

## Draft Text Amendment – Development Code Section 3.4.000

The purpose of the amendment is to allow the City to defer construction of certain road improvements until such time as the adjacent property develops. For example, 3.4.100.J requires the installation of sidewalks, street lights and street trees that are unlikely to be necessary until the adjacent property develops, at which time at least some of these amenities are likely to be removed to accommodate the developer's site plan. This amendment therefore represents the responsible management of public resources.

### BDC 3.4.000 Purpose and Applicability

\* \* \*

B. Applicability. Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter; except that the City may waive-defer compliance with one or more of the development standards for a public improvement project constructed by the City or other public agency if the City finds that the improvements required by the standard(s) are not necessary or are likely to be provided by adjacent private development of the adjacent property.

\* \* \*



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January 1, 2024

Via Electronic Mail  
Boardman City Council  
C/O Carla McLane  
City Planner  
200 City Center Circle  
P.O. Box 229  
Boardman, Oregon 97818

RE: Proposed Boardman Development Code Text Amendments to BDC 3.4.0

Dear Honorable Mayor and Members of the City Council:

This firm represents 1st John 2:17, LLC and Jonathan Tallman (Tallman). Please include this letter in the record of the proposed text amendments being considered on January 2, 2024. We urge you to deny the proposed amendments.

Jonathan Tallman is the managing member of 1st John 2:17, LLC. 1st John 2:17, LLC owns property west of and abutting Laurel Lane (tax lots 3302, 3207 and 3205) and directly across Laurel Lane from the Loop Road improvements the City constructed to wholly substandard levels. The "Loop Road" is referred to in the staff report/findings as "Yates Lane" and "Devin Lane". We refer to it similarly in this letter as well as in the manner that LUBA referred to it as the "Loop Road."

### **The New Proposal**

The proposal before you is different in name only from the proposal that the planning commission considered. Its legal import is no different than the previous version that the planning commission reviewed. The proposal now is the following:



#### BDC 3.4.000 Purpose and Applicability

\* \* \*

B. Applicability. Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter; except that the City may waive-defer compliance with one or more of the development standards for a public improvement project constructed by the City or other public agency if the City finds that the improvements required by the standard(s) are not necessary or are likely to be provided by adjacent private development of the adjacent property.

\* \* \*

#### **The Staff Report Characterizes the Proposal as a Response to LUBA's Decision that the Loop Road was Improperly Installed by the City. That May be but the Proposed Amendment Applies to Any Road Improvement, Anywhere in the City**

The proposal purports to allow the City to “defer” required road improvements anywhere in the City, ostensibly forever; on the finding that at some undefined point in the future, it is “likely” that adjacent private development will provide the required improvements. Pause here for a moment. The City has installed a wholly substandard Loop Road. That road is no real benefit to anyone – it lacks neither the right of way nor “pavement” for any type of collector street – when the City TSP requires it be developed as a collector. It has no sidewalks, no streetlights, no bike lanes, no landscaping, in fact very little about it complies with any law. In fact, it dooms private development to stagnation because the City’s code will require that any private development be denied unless the required infrastructure is in place – unless that requirement is waived under the “unconstitutional conditions” rule of *Dolan v. City of Tigard* and related City code provisions. Or under *Koontz v. St. Johns Water District* which holds that the City cannot deny development because the private owner invokes his constitutional right not to be required to install infrastructure that is not roughly proportional to the impacts of his development.

But the proposal purports to allow the City to “defer” all and any required access/transportation requirements – ostensibly even pavement and right of way -- on the idea that the City can make “findings” that those facilities will all be developed when “adjacent” private property develops. Yet no “adjacent” private party can condemn land to obtain the required right of way and pavement widths. No private development can be reasonably expected to build a collector road with all of the access and transportation features the City’s TSP and code require. So, what you will have in truth under the proposal is a City pathway to sorely substandard streets in the City of Boardman, that are unsafe for people to walk on, unsafe to bike on, unsafe to serve as access for emergency services and passenger vehicles, unsafe for freight to access and wholly inadequate to move people and goods around, regardless of the mode or

movement reason. Far from being “responsible” the proposal is the most irresponsible piece of City legislation this author has seen in 40 plus years of doing this work.

Under the proposal, the City need not find that it is “likely” that any otherwise required transportation/access improvements will be provided in anyone’s lifetime, when needed, as needed, or even over the planning horizon of the City’s TSP. The proposal is tantamount to an indefinite waiver of the requirements in the City code, the City TSP and the two IAMP’s that bind the City, requiring that road improvements be provided to particular standards (i.e to collector standards and that require “lateral improvements” like bike lanes, sidewalks, street trees and landscaping strips, etc.).

Among other requirements, BDC 3.4.100(A)(2) requires that the “Development of new streets, and additional street width or improvements planned as a portion of an existing street shall be improved in accordance with this Section.” “This Section” is BDC 3.4.100(A)-(Y). BDC 3.4.100(A)-(Y) contain the standards that “new streets” and “existing street” improvements are required to meet. The proposal purports to give the City authority to “defer” those requirements on a finding that private development on “adjacent property” is “likely” to provide the required improvements. Yet there are no standards regarding what it would take for the City to find it “likely” that “private development will provide required improvements.

Moreover, there is no process provided or contemplated to assure that such deferral will be subject to notice and opportunity for public comment, to ensure that the City does not make such a “finding” without any substantial evidence to support it. Gallingly, not only is there no public notice and hearing process for the City to make the highly subjective and factually intensive determination regarding whether private development is “likely” to provide required improvements, the proposal ostensibly allows the City or any other public agency to make substandard road improvements and for the City to attempt to justify them later with the “likely” findings when the folly is discovered.

The proposal simply sets up an inappropriate backroom process for the City to make a private decision that public agencies can avoid compliance with mandatory access and transportation standards, and allow those substandard improvements to be constructed, so long as there is an eventual “finding” that it is “likely” that the required public infrastructure can be foisted on private development to provide at some point in the future. That scheme has never been held to be lawful and it is not. *See Meadow Neigh. Assoc. v. Washington County*, 55 Or LUBA 472 (2007) (even where deferral is allowed (and it is not here), deferral can only be authorized if there is a second stage that ensures there is a meaningful opportunity for public notice and hearing before the deferred “findings” are made.); *Township 13 Homeowners Assoc. v. City of Waldport*, 53 Or LUBA 250 (2007) (deferral of compliance with mandatory standards is error where no provision for notice and opportunity for a public hearing); *McKay Cr. Valley Assoc v. Washington County*, 24 Or LUBA 187 (same).

The proposal is tantamount to an indefinite waiver of mandatory access and transportation standards - there is no requirement or assurance that any requirements will ever be



met. LUBA has already this scheme to be unlawful. There is nothing to suggest that the proposal will fare any better.

**The Word Changes to the Proposed Amendment do not Change the Undeniable Fact that the Proposal is Unlawful**

Recognizing that the proposal fails to comply with law, City staff have suggested a half-hearted amendment, moving a few words around. Respectfully, that proposed amendment suffers from the same serious legal defects that they hope to get around. We identified many of these serious legal defects in our December 2023 letter to the planning commission. The problems identified in that letter persist under the proposal. For brevity, we do not repeat our December 2023 letter to the planning commission but rather incorporate it here by this reference. Here, we simply highlight key deficits.

**Illustrative Key Deficits of the Proposal**

The idea that the City may work in concert with adjoining concurrent private development to co-develop road improvements, might make sense in some situations where there is specific development proposed on adjoining property at the time that the City is also making improvements, and there is a reasonable basis (supported by substantial evidence) to conclude that the totality of the required access and transportation improvements will be timely installed. But the proposed amendment requires no such thing. Rather, the proposal is pitched as a late response to LUBA's decision that the Loop Road constructed by the City fails to comply with mandatory requirements. As with the City decision that LUBA held to be unlawful, here nothing supports a conclusion that required access/transportation infrastructure in the Loop Road or anywhere else will ever be constructed once "deferred" and there is no mechanism to ensure that required infrastructure will ever be constructed either. Your planning commission was concerned about this and you should be too.

As LUBA explained: "if adjoining property is never developed, then, under the city council's interpretation, no lateral improvements will be constructed, contrary to the express requirements of the code." LUBA decided that the "waiver" or "deferral" idea advanced previously and now in the proposed amendment, is unlawful because it "provides no mechanism or process to require lateral improvements for already-developed properties that are adjacent to the new roadways." LUBA explained that the "clear purpose" of the City's rules that the proposal then before it and now "is to require lateral improvements<sup>1</sup> to be constructed along city roadways." LUBA held that not providing required improvements concurrently with the development of the Loop Road "is certainly inconsistent with the purpose of" the City's code. Those holdings apply equally to the proposal.

LUBA agreed with Tallman's that the City's TSP required the "Loop Rd." to be developed as a minor collector and that City standards require that the infrastructure the City

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<sup>1</sup> By "lateral improvements" LUBA said it was referring to the City's mandatory requirements for sidewalks, bike lines, landscape strips, streetlights and so forth.

neglected to install, be installed. LUBA observed that the City erred in failing to acquire the required right of way for the Loop Road and failed to install the required amount of pavement even for a neighborhood collector. LUBA pointed out that even if the Loop Road were only required to meet neighborhood collector standards, that the City failed to acquire the required amount of right of way to enable the Loop Road to serve as either a minor or a neighborhood collector. LUBA observed that the “pavement” that the City installed is wholly inadequate to meet even neighborhood collector standards. Private developers cannot acquire required right of way- they have no condemnation authority. Moreover, some of the adjacent property is owned by public agencies including ODOT and UEC and no private property owner can condemn public property. Under the proposal, there will never be any assurance that the Loop Road or any other will ever be constructed to required standards.

Further, the IAMP (a part of the City TSP) makes clear that the Loop Road is supposed to support economic development of this region of the city, stating the required improvements for the “Loop Road” are necessary

To support long-term commercial growth on the south side of the interchange,

Moreover, the IAMP is replete with similar findings.

LUBA pointed out that the affected area is zoned commercial and is supposed to deliver economic uses to the City. LUBA explained that some of the property in this area is already developed. As LUBA posited, how can the City expect that developed properties will provide the required infrastructure? The reality is that they will not do so, and nothing requires that they do so. The remaining underdeveloped or undeveloped properties cannot reasonably be expected to provide required infrastructure when the City fails to require itself or any other agency to install required infrastructure, as required. Developed properties have no obligation to do anything and both the City code and constitutional law establish that the City may only require underdeveloped or undeveloped property to install roads, dedicate right of way or lateral road infrastructure or impose other “conditions” if doing so is roughly proportional to the impacts of that development both in nature and extent. The City theoretically could take the position that it can expect private development to install the access/transportation work it was unwilling to do, but nothing suggests that the City has the authority to shift those burdens to private development (in whole or part), and a court or LUBA is likely and capable of reversing such a determination. When that happens, there is no mechanism to ensure the required improvements are actually built. Ever.

The proposal fails to demonstrate that the City can maintain its Goal 9 (Economic Development) compliance when required access/transportation improvement standards that are acknowledged to provide the necessary transportation infrastructure to ensure safe and adequate operations occur for “commercial development” in the City, may never be installed. For example, the Loop Road is supposed to be a collector road. It can never serve that role if adjacent property for whatever reason either cannot be required or is not required by the City to provide required improvements and the City does not require itself to provide required improvements. The City did not bother or establish the required right of way or pavement for either a minor collector or a neighborhood collector to ever be installed. Similarly, the City’s

Goal 12 compliance hinged on the City's compliance with the IAMPs and the City TSP and the implementing access regulations to include those in BDC Chapter 3 that the City under the proposal hopes to give itself authority to "defer" forever. If the proposal is adopted, the City will no longer comply with OAR 660-012-0020(2)(a); 045(3)(b)(B); 610; 620; 810; 820; 905, among others.

Similarly, if the City were to defer required road improvements for housing, the City would have a Goal 10 (housing) problem caused by the proposal. The City's Goal findings are utterly deficient.

In addition to presenting direct Goal compliance problems, the proposal has impermissible secondary effects on the City's continued Goal compliance that are completely ignored by the proposed findings. It is settled that review for compliance with state planning goals is not limited to provisions that the proposed amendments directly affect. *1000 Friends of Oregon v. Jackson County*, 79 Or App 93 (1986) (*Jackson County*). Rather, as the Court of Appeals explained in *Jackson County*, amendments can affect provisions of the City code and here the City TSP that are not directly changed by the proposal because the application of the proposed amended provisions can create problems that did not exist at the time of acknowledgement. Here, at the time of acknowledgement, the City's Goal 9 and 12 compliance was inexorably tied to compliance with the very standards that the City now purports to give itself authority to defer. Similarly, City goal compliance was tied to the City's downtown interchange IAMP. The proposal errs on this basis as well.

The proposal authorizes the City to indefinitely "defer" required transportation infrastructure requirements for its own road projects or those improvement required for the development of its own property but also for that of any "public agency" – presumably including ODOT or UEC or Morrow County, or the school district, or any other public agency that one can think of. Thus, when UEC or ODOT or the school district develop their properties, say if ODOT develops a rest area or UEC an office, or the district a new school, and would be otherwise required to install access/transportation infrastructure, they can be excused from performing required infrastructure improvements on the false claim (in City findings) that "adjacent" private property owners are "likely" to install it for those public agencies. Nothing will ever assure that such a fantasy will become reality and so required road improvements will never happen.

Moreover, the IAMP contemplates specific congestion at the I-84 interchange ramps to trigger particular Loop Road improvements; improvements the proposal can "waive off" on the claim that someday "adjacent" development will install them. For example, the IAMP states that Laurel Lane will be widened to include a center turn lane between Yates Lane and the I-84 Westbound ramp terminal" to include "a 16' wide center turn lane will allow left-turning vehicles on Laurel Lane to wait for a gap in traffic to make their turn without impeding free flowing through or right-turning traffic; thereby improving operations and reducing the likelihood of vehicles stacking from one ramp terminal through another. The IAMP establishes the timing of these improvements. "This improvement would be constructed when one of the ramp terminal intersections along this section of Laurel Lane fails to meet its operational standard or when the

95th-percentile queue from one intersection stacks in front of another.” The proposal allows the City to ignore this, and any other critical timing component established in the City IAMP’s or TSP or code and merely “defer” required improvements, regardless of whether the required trigger for the improvement is met.

Compounding this problem is the fact that “adjacent” property may never be developed until long after the IAMP or other trigger necessitating them is met or those properties may be developed in a way that does not justify the City imposing conditions of approval requiring private property owners to construct the infrastructure the City erroneously failed to install in the first place. Even if the city makes the “findings” contemplated by the proposed amendment, as noted above, there is certainly the potential that such findings will be overturned by LUBA, a state court or a federal court, posing just another reason why the access and transportation improvements that the City code, TSP and IAMP require, will never be built if the proposed amendment is adopted.

Further, nothing in the TSP contemplates that the City will itself build or allow others to build or neglect to build any City street including “lateral improvements” in whole or part, including the Loop Road, below the standards required by the TSP and City code. For example, the POM IAMP (which is a part of the City’s TSP) is express that the Loop Road will be built to collector standards. LUBA agreed and agreed that it appeared the standard was to build the Loop Road to the minor collector standard. That is now the final decision that binds the City because the City failed to respond to LUBA’s remand in the required period for doing so. The City did not build the Loop Road to minor collector standards or even neighborhood collector standards for that matter, not having the paved width or lateral improvements required for either type of collector, and of course the City installed none of the required “lateral improvements.” The City failed to obtain adequate right of way to ever establish the Loop Road to any collector standards.

Therefore, it is undeniable that the proposal:

1. Is an amendment to the City zoning ordinance that has a “significant effect” on City transportation facilities under the state Transportation Planning Rule (TPR) and the City has undertaken none of the required steps to address that fact. The proposal is designed at least in part to give the City authority to attempt to justify the City’s construction of the Loop Road to less than required functional standards (lacking right of way and pavement that is required for a minor collector or for that matter a neighborhood collector). That at a minimum triggers the “significant effect” prong of OAR 660-012-0060(1)(a). It impermissibly proposes to allow the degradation of the performance standards established in the IAMP/TSP for any City transportation facility constructed in whole or part by any public agency (even for their own development), on the idea that adjacent private development is “likely” to someday fix that problem. That triggers OAR 660-012-0060(1)(c)(B). The proposal is simply a legal nonstarter.
2. Is contrary to the City’s obligations in the POM IAMP; the Downtown Interchange IAMP, the City TSP and Comprehensive Plan;

3. Is contrary to Goal 12 and the TPR because the City justified its compliance with Goal 12 on the basis of transportation and access improvements being developed per the IAMP and not being deferred potentially forever. It is also contrary to Goal 9 and Goal 10 because required access and transportation improvements may never be built. The proposal has secondary effects on the City's continued compliance with all state planning goals.

### **The Proposal's Justification is an Obvious, Ineffectual Ruse**

Staff purports to justify the proposal, claiming that it is a response to LUBA's opinion that held that the City violated the law when it constructed parts of the Loop Rd without complying with mandatory requirements of the City's code:

The purpose of the amendment is to allow the City to defer construction of certain road improvements until such time as the adjacent property develops. For example, 3.4.100.J requires the installation of sidewalks, street lights and street trees that are unlikely to be necessary until the adjacent property develops, at which time at least some of these amenities are likely to be removed to accommodate the developer's site plan. This amendment therefore represents the responsible management of public resources.

And asserting that somehow not building required infrastructure is "responsible" municipal behavior and nothing could be further from the truth. The staff report states:

This memorandum is provided to assist in your review and consideration of an amendment to the Boardman Development Code (BDC) that is intended to provide the City of Boardman flexibility in accomplishing public improvement projects prior to full development of adjoining lands. The need for the amendment was identified in a recent case at the Land Use Board of Appeals (LUBA) filed by Jonathan Tallman and 1<sup>st</sup> John 2:17 LLC. The amendment will provide the City additional flexibility citywide when future opportunities arise that allow the City to defer construction of ancillary or amenity improvements and allow the city to focus public investment on infrastructure (water, wastewater, and pavement).

The idea that transportation and access infrastructure "are likely to be removed to accommodate the developer's site plan" is silly and is not supported by any adequate factual basis or substantial evidence for that matter. When the City or any other public agency develops public transportation and access infrastructure to required standards, that helps, incentivizes, and enables adjacent properties to develop. There is nothing, and that is zero, evidence to suggest that any developer in their right mind is going to tear out streetlights, or sidewalks, or bike lanes, or access points, or property sized collector streets to put in a driveway. There may be modest adjustments, but there will not be wholesale removal of any infrastructure for "driveways" and the idea peddled by staff to this effect is wrong if not insulting.

The truth is exactly to the contrary. It is well understood that having "shovel ready" industrial property – with properly installed public infrastructure in place is critical and is the key feature that enables development to happen in a City in the first place. In this regard, the Oregon legislature in 2023 convened a task force about industrial development, specifically semiconductor development. That taskforce was very clear that one of the critical issues

Oregon's Metro area faces is that it lacks "shovel ready" industrial sites – which includes a lack of industrial sites with adequate access/transportation infrastructure. Here, the City was and is perfectly capable of installing the Loop Road to required standards but wholly neglected to do so. Snippets from the report of the task force is illuminating:

Most troubling is the paucity of large sites that are "Tier 1" or "development ready", meaning they have infrastructure in place and development can begin within six months or less. The Metro region currently has only two development ready sites totaling 82 acres. There are only six sites in the Tier 2 category, meaning they require significant permitting and infrastructure improvements to be developed within three years. This subcommittee determined that only three of those six sites and 352 acres would meet the industry's site requirements (including those listed above and other factors like site grade).

Notably, there are no development ready sites of the size needed to attract a major semiconductor investment, or to support larger size suppliers.

The Mayor of the City of Albany lamented that city had lost out on "at least five new companies highly interested in investing in Albany" because Albany lacked adequate transportation infrastructure and the cost to provide it was way beyond the capacity of even the semiconductor industry:

lands. We have been overlooked in this last year alone by at least five large, new companies highly interested in investing in Albany. Ultimately, these companies did not invest in Albany because the cost and timeline for a shovel ready project far exceeded market driven timelines and costs. For perspective, our two largest industrial zoned sites (242 acres and 67 acres respectively) would support several hundred new, high paying jobs. But combined, both carry a shovel ready cost of nearly \$43M for transportation access alone. Additionally, regulatory requirements for any required wetland remediation adds years to the site readiness timeline.

It has been our sad experience that we have repeatedly missed out on transformative investments because we lack the financial capacity to support the creation of shovel-ready lands on our own. Unfortunately, the state as a whole, has also missed out on the payroll tax generation those projects represent, further hampering efforts to address homelessness, affordable housing, education, and environmental protection.

The truth is that the only evidence that there is that the City's IAMPs and TSP and code require certain transportation infrastructure because it has been determined that transportation infrastructure is necessary for a safe and adequate transportation system. The type of required facilities (collector), the width of required right of way for those facilities, the required amount of pavement, the access points, the bike lanes, sidewalks, streetlights, landscaping, have all been legislatively determined to be necessary to a livable City and is how the City demonstrated its compliance with Goal 12, Goal 9 and other goals. The City's proposed wholesale abandonment of those requirements on the idea that it can foist improving intentionally inadequate public infrastructure on adjacent private development is a legal and policy nonstarter. The City should reject the proposal. Thank you for your consideration.

Very truly yours,





Wendie L. Kellington

WLK:wlk  
CC: Clients

**FINDINGS OF FACT  
PLANNING COMMISSION  
AMENDMENT A-BDC-23-001**

**REQUEST:** To amend Chapter 3.4 Public Facilities Standards Section 3.4.000 Purpose and Applicability Item B Applicability of the Boardman Development Code (BDC) to allow the city to defer construction of certain improvements until such time as the adjacent property develops.

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**APPLICANT:** City of Boardman  
Planning Official  
Post Office Box 229  
200 City Center Circle  
Boardman, Oregon 97818

- I. GENERAL INFORMATION:** The proposed amendment is the result of a series of appeals related to work the City took on to complete improvements to Yates Lane and develop Devin Loop south of the Port of Morrow (POM) Interchange in conformance with the POM Interchange Area Management Plan (IAMP). The proposed change in language to Section 3.4.000.B is the simplest change to allow the City to close the file on both the appeals as well as the project that resulted in improvements to east Yates Lane and the development of Devin Loop.
- II. PROCEDURE:** An amendment to the City development code is processed using the Type IV procedures. The Type IV process requires a hearing before the Planning Commission with a recommendation to the City Council. The final hearing will occur before the City Council.
- III. APPROVAL CRITERIA:** The request has been filed under the BDC Chapter 4.1 Types of Applications and Review Procedures, more specifically 4.1.600 Type VI Procedures (Legislative). The criteria are identified below in **bold type** with responses in regular type.

**G. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:**

**1. Approval of the request is consistent with the Statewide Planning Goals.**

The Statewide Planning Goals applicable to this request are Goal 1, Citizen Involvement; Goal 2, Coordination; Goal 9, Economic Needs; Goal 11, Public Facilities; and Goal 12, Transportation.

Goal 1 requires the City to “develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.” Because the proposed legislative amendment will be heard by both the Planning Commission and the City Council, there will be at least two opportunities for public comment to the proposed change. This is consistent with the City’s acknowledged citizen involvement program. (Goal 1, Policy 4: The Planning Commission is officially designated as the Citizen Involvement Committee.)

Goal 2 requires the City to adopt a comprehensive plan and implement the plan through its development code. The proposed amendment is consistent with the comprehensive plan as described in these findings. (Goal 2, Policy 3: The City has adopted the City of Boardman

Development Coded, a unified zoning and subdivision land use code to facilitate the development process and implement the land use goals of the City as outlined in the Comprehensive Plan.)

Goal 9 requires the City to provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of its citizens. The proposed amendment is consistent with this Goal as it would allow the City to develop infrastructure in support of employment lands at a cost that is affordable and assigns associated amenities to occur at the time of development with associated costs accruing to the development. Goal 11, Policy 4: Promote cooperation among the city, the Port of Morrow, and other interested parties to facilitate the most effective uses of public facilities serving the planning area.)

Goal 11 requires the City to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development. While the Comprehensive Plan Public Facilities chapter does not discuss transportation at length, it does discuss transportation as part of the overall infrastructure that needs to be planned for and developed for the City to grow and prosper. The proposed amendment facilitates the development of public transportation infrastructure, which provides the public easements and rights-of-way necessary for sanitary sewer, storm sewer and municipal water facilities. (Goal 11, Policy 6: The City shall prioritize development of land serviced by utilities and require the extension of water, sewer and storm drainage facilities for all urban level development within the UGB. Goal 11, Policy 15: The City shall maintain an eight (8) year supply of commercial and industrial land that is serviceable by water, sewer, storm drainage and transportation infrastructure.)

Goal 12 requires the City to plan for transportation facilities and is implemented through the City's Transportation System Plan, including the POM IAMP. The proposed amendment implements the POM IAMP by facilitating the improvements to Yates Lane and the development of Devin Loop. The amendment allows the City to develop road infrastructure, as required by the POM IAMP, but defer the installation of certain amenities adjacent to that infrastructure until such time as the adjoining parcel(s) develop. (Goal 12, TSP Policy: Dedication of right-of-way, authorization of construction and the construction of facilities and improvements for improvements designated in the Transportation System Plan, the classification of the roadway and approved road standards shall be allowed without land use review.)

For these reasons, the criterion is met.

## **2. Approval of the request is consistent with the Comprehensive Plan.**

The Boardman Comprehensive Plan (BCP) has a variety of policies that support the proposed amendment and the process used to achieve it. Goal 1 policies support citizen involvement and the public hearing process. Goal 1, Policy 4, designates the Planning Commission as the City's official Citizen Involvement Committee. Therefore, review by the Planning Commission ensures compliance with the comprehensive plan.

Goal 2, Policy 8, requires the City to coordinate with the Port of Morrow on the development of industrial areas within the UGB. The proposed amendment implements the POM IAMP and will facilitate the development of industrial lands in the interchange area by providing for the development of public transportation infrastructure.

Goal 9 requires the City to provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of its citizens. The proposed amendment is consistent with the Comprehensive Plan as it would allow the City to develop infrastructure in support of employment lands at a cost that is affordable and assigns associated amenities to occur at the time of development with associated costs accruing to the development. (Goal 11, Policy 4: Promote cooperation among the city, the Port of Morrow, and other interested parties to facilitate the most effective uses of public facilities serving the planning area.)

Goal 11 supports public facilities planning including assuring that urban services, which includes streets, are available to lands available for development. Goal 11, Policy 1, requires the City ensure that urban services, including water, sewer and storm drainage services and transportation infrastructure, are available to serve industrial lands within the City. The proposed amendment allows for the cost-efficient installation of public infrastructure that provides for these urban services, while deferring the installation of related amenities until the adjacent property develops. To that end, the improvement of Yates Lane and the installation of Devin Loop provide an opportunity for development south of the POM Interchange.

Further, Goal 11, Policy 3 provides that the City will support development that is compatible with the City's ability to provide adequate public facilities and services. By allowing the City to defer the cost of certain frontage amenities until the adjacent property develops while allowing the transportation and subsurface public facilities to be installed, the amendment ensures that the related development is "compatible" with the City's financial ability to provide public facilities.

Finally, Goal 12, Policy 1, designates the Transportation System Plan (TSP) as part of the comprehensive plan, and the POM IAMP is part of the TSP. Thus, because the amendment advances the POM IAMP, it is consistent with Goal 12, Policy 1. In addition, Goal 12 requires the City plan and develop a network of streets to provide circulation within the community, which was achieved by the improvement and installation of Yates Lane and Devin Loop.

For these reasons, the criterion is met.


- 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.**

No specific property is affected by the proposed amendment. The intent is to amend this one provision that would allow the City to defer installation of certain amenities only for a public improvement project when the City finds that the standard(s) are not necessary or are likely to

be provided by adjacent private development. As such, the amendment applies to development projects generally in the City, without regard to location. However, by allowing the planned transportation network to be constructed but deferring the installation of certain amenities until the adjacent property develops, the amendment is consistent with ensuring all transportation facilities, including the amenities, will be provided concurrent with development of the property.

For these reasons, the criterion is met.

- IV. **LEGAL NOTICE PUBLISHED:** November 28, 2023  
East Oregonian
- V. **DLCD 35-DAY NOTICE:** October 22, 2023
- VI. **AGENCIES NOTIFIED:** Department of Land Conservation and Development; Morrow County Planning Department.
- VII. **HEARING DATES:** Planning Commission  
December 20, 2022  
Council Chambers  
Boardman City Hall  
200 City Center Circle  
Boardman, Oregon 97818  
  
City Council  
January 2, 2024  
Council Chambers  
Boardman City Hall  
200 City Center Circle  
Boardman, Oregon 97818
- VIII. **PLANNING OFFICIAL RECOMMENDATION:** The Planning Official recommends the Planning Commission forward the request to the City Council with a 'do adopt' recommendation.

  
Sam Irons, Vice-Chair  
Planning Commission

12/26/23  
Date

**ATTACHMENTS:**

- Redline Version of Chapter 3.4 Public Facilities Standards Section 3.4.000 Purpose and Applicability Item B. Applicability (as amended).
- Letter dated December 19, 2023, from Wendie Kellington, Kellington Law Group, PC representing Jonathan Tallman and 1<sup>st</sup> John 2:17 LLC

## Draft Text Amendment – Development Code Section 3.4.000

The purpose of the amendment is to allow the City to defer construction of certain road improvements until such time as the adjacent property develops. For example, 3.4.100.J requires the installation of sidewalks, street lights and street trees that are unlikely to be necessary until the adjacent property develops, at which time at least some of these amenities are likely to be removed to accommodate the developer's site plan. This amendment therefore represents the responsible management of public resources.

### BDC 3.4.000 Purpose and Applicability

\* \* \*

B. Applicability. Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter; except that the City may waive-defer compliance with one or more of the development standards for a public improvement project constructed by the City or other public agency of the City finds that the standard(s) are not necessary or are likely to be provided by adjacent private development.

\* \* \*





KELLINGTON  
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Email: [wk@klgpc.com](mailto:wk@klgpc.com)

December 19, 2023

Via Electronic Mail  
Boardman Planning Commission  
C/O Carla McLane  
City Planner  
200 City Center Circle  
P.O. Box 229  
Boardman, Oregon 97818

RE: Proposed Boardman Development Code Text Amendments to BDC 3.4.00

Dear Chair and Members of the Planning Commission:

This firm represents 1st John 2:17, LLC and Jonathan Tallman (Tallman). Please include this letter in the record of the proposed text amendments being considered on December 20, 2023. We urge you to deny the proposed amendments. Jonathan Tallman is the managing member of 1st John 2:17, LLC. 1st John 2:17, LLC owns property west of and abutting Laurel Lane (tax lots 3302, 3207 and 3205) and directly across Laurel Lane from the Loop Road improvements which is what the proposed amendments are all about, as the staff report/findings admit. The "Loop Road" is referred to in the staff report/findings as "Yates Lane" and "Devin Lane".

Please include the record for LUBA No. 2022-062 in the record of this proceeding. Mr. Tallman will bring a thumb drive of that record to the hearing tomorrow night as well.

**The Proposed Amendment will not Change the Fact that LUBA has Held that Yates Lane and Devin Lane (ie the Lopp Road) Fails to Comply with the City's Road Standards the BDC and the City's TSP/IAMP.**

The staff report is mistaken regarding the import of LUBA's decision. The staff report suggests that the proposal implements LUBA's decision in some way as the "simplest change to allow the City to close the file on both appeals \*\*\*"). That is gravely mistaken. The reality is the converse: LUBA agreed with Tallmans that the City's substandard and partial improvements to Yates Lane (and Devin Lane) failed to remotely comply with the City's code – which are parts of the City's code that are not being amended under the proposal and with which the City must comply.

LUBA agreed with Tallmans that the "Loop Road" was a collector and that the City failed to prove up on its claim it was a "neighborhood" collector rather than a "minor collector". By remanding, LUBA gave the City a chance to try to justify characterizing the Loop Road as a

neighborhood collector instead of what both Tallmans and LUBA thought it was – a “minor collector”. However, the City made **no effort to do so in the 180-days that state law allows**, and therefore the Loop Road is a minor collector as Petitioner explained to LUBA and as LUBA agreed in the absence of a plausible City interpretation otherwise.

On this point, it is important to understand that state law gave the City 180 days to respond to LUBA’s remand and try to prove up on the point the City argued in its LUBA brief that the “Loop Road” was a “neighborhood Collector. ORS 227.181(2)(a). However, the City failed to make any effort at all to respond to LUBA’s remand in that 180-day period. That means as a matter of law it is now established that the Loop Road is a “minor collector” and must meet minor collector standards. There is no dispute it does not meet minor collector standards. The proposed amendment does not change the fact that as a matter of law, the Loop Road (both parts of it) must meet minor collector standards.

The proposal only solidifies that the improvements to Yates Lane and Devin Lane are woefully incomplete and inadequate and violate City transportation standards. Solidifying those errors in a new ordinance **does not** make those errors go away and does not create conforming City streets. Recall, that in the LUBA case, the City attempted to interpret its code to allow the City to waive the clear requirements to install transportation infrastructure in the same manner that the proposed code amendment purports to waive transportation infrastructure requirements. LUBA held that was unlawful. And the constructed substandard City streets are still unlawful under the proposal.

LUBA not only agreed with Tallmans that the Loop Road was a minor collector in the absence of a plausible City interpretation otherwise in the required 180-day period (which never happened), but LUBA also agreed with Tallman explaining that it was unlawful for the City to have constructed City streets without constructing the required infrastructure to go in them as the City code requires: “if adjoining property is never developed, then, under the city council's interpretation, no lateral improvements will be constructed, contrary to the express requirements of the code. The city council's interpretation also provides no mechanism or process to require lateral improvements for already-developed properties that are adjacent to the new roadways.” LUBA further explained that the “clear purpose” of the City’s unamended rules “is to require lateral improvements to be constructed along city roadways.” LUBA held that not providing required improvements concurrently with the development of Yates Lane “is certainly inconsistent with the purpose of” the City’s unamended code. Required improvements include adequate width required by the City Code (*i.e.* 75’ is required instead of 60’ of right-of-way; sidewalks, streetlights, bike lanes and landscaping strips, compliant water, sewer and storm facilities). Thus, what the City proposes here, has already been held to be unlawful.

Therefore, far from being a “simple” “response” to LUBA, the proposal adds more needless complexity and costs. The proposal seeks to codify what LUBA already has held to be unlawful which will guarantee more litigation and, perhaps worse, perpetuates substandard City streets until LUBA’s order that the City must install the expressly required street improvements in City streets (Yates and Devin), is eventually enforced by a court.

**The Time for the City to Respond to LUBA's Remand Has Passed. Now LUBA's Order is Law of the Case that Must be Complied With.**

As noted above, state law gave the City 180 days after LUBA's final decision to respond to LUBA's remand. ORS 227.181(2)(a). The City did **exactly nothing** in response to LUBA's remand order in that 180-day period, which expired months ago. When the City failed to respond to LUBA's remand within the required 180-days, the City's application was ("shall" be) deemed "terminated." ORS 227.181(2)(a). That means that now, the City is bound by LUBA's holdings – including that the Loop Road must have the City code required improvements and must be constructed to the width and other features required for a minor collector. Fixing the Loop Road to install the required width and infrastructure is **the only lawful response** available to the City at this point.

**Regardless, the City Loop Road is Bound to be Constructed to the Standards and Criteria in Effect when it was First Applied for which does not Include the Proposed Amendment.**

A prospective City code amendment would not have helped the City regardless, even had the City had successfully amended its code as proposed within the 180-day period of ORS 227.181(2)(a). That is because the City is obligated by ORS 227.178(3) (no change in the goalposts rule) to apply the same "standards and criteria" that were applicable at the time the application for the roads were submitted to all subsequent applications. *Gagnier v. City of Gladstone*, 38 Or LUBA 858 (2000). The amendment proposed here was not in effect what the application for the Loop Road was first submitted. The constructed Loop Road improvements have not only not received land use approval that LUBA held was unlawful, but now there can be no dispute that both parts of the Loop Road violate the BDC.

**Proposed Amendment is Inconsistent With Boardman Development Code (BDC)  
1.1.700(A)**

BDC 1.1.700(A) requires that all City officials, employees and contractors who have authority to "issue permits, or grant approvals shall adhere to and require conformance with this Code" and requires they "shall issue no permit or grant approval for any development or use which violates or fails to comply with \*\*\*\* standards imposed to carry out this Code." Both Yates Lane and Devin Lane fails to comply with BDC 3.4.100. BDC 3.4.100.A.2 requires that the "Development of new streets, and additional street width or improvements planned as a portion of an existing street shall be improved in accordance with this Section." "This Section" is BDC 3.4.100.A-Y. BDC 3.4.100(A)-(Y) contain the standards that "new streets" and "existing street" improvements are required to meet. For example, BDC 3.4.100.J requires "Sidewalks, planter strips and bicycle lanes *shall* be installed in conformance with the standards in Table 3.4.100 \* \* \*"; BDC 3.4.100.X that requires that "Streetlights shall be installed" at "intervals of 300 feet". Yet both Devin Lane and Yates Lane fail to comply with these standards. BDC 1.1.200(A) also states that "no building permit shall be issued without compliance with the provisions of this Code" and BDC 1.1.600(A) reinforces that point by stating that no building permit shall be issued until a development permit in accordance with the provisions of BDC Chapter 5 has been issued. To the extent any part of the required improvements to the Loop

Road require building permits, they cannot lawfully be issued under the above code provision. The proposed amendment does not change that at all. Again, both Devin Lane and Yates Lane (the Loop Road), were constructed without complying with these required standards. The City is prohibited from amending its code to purport to allow permits and approvals to be issued in violation of the clear requirements of BDC 3.4.100 and nothing in the BDC allows for retroactive approvals for land uses LUBA has said do not comply with the BDC.

In fact, LUBA has already held that the City is foreclosed from interpreting its code to allow the City to waive these mandatory standards. The proposed amendment is just as unlawful.

### **Proposed Amendments Are Inconsistent With the City Comprehensive Plan and Transportation System Plan (TSP)**

The proposal amends the City's Land Development Code (Boardman Development Code or "BDC"). It is settled that the City may not amend its BDC in a manner that is inconsistent with the City TSP or Comprehensive Plan. The proposal is inconsistent with the City Comprehensive Plan and TSP and is therefore unlawful. The TSP itself required an amendment to the City Comprehensive Plan in which the City's Plan would expressly state that "all development proposals, plan amendments or zone changes shall conform with the adopted [TSP]." The proposal neither complies with the City plan nor the City TSP.

The comprehensive plan at Chapter XII (Transportation), p 3 provides that "[b]ikeways shall be included on all new arterials and collectors within the Urban Growth Boundary except on limited access freeways." Nothing about that wording is conditional or ambiguous. No bikeways are included on Devin Loop, which is a "new collector" that is within the City's UGB and is not a limited access freeway. Likewise, there are also no bikeways on Yates Lane, which is a "new" collector.

The plan at Chapter XII, p 3 also provides that "[s]idewalks shall be included on all new streets within the Urban Growth Boundary except on limited access freeways." No sidewalks are included on Devin Loop, which is a "new street" and is not a limited access freeway. There are also no sidewalks on Yates Lane and it is also a "new street". The Loop Road is inconsistent with the comprehensive plan.

The City's TSP, Table 7 "Street Design Standards" provides standards for two types of "collectors" – "Collector – City Developed Alternative" and "Downtown Collector".<sup>1</sup> Table 7 provides that City Developed Alternative Collectors shall have 75-foot rights-of-way, turn lanes at intersections, 12-foot travel lanes, 8-foot bikeways, 5-foot sidewalks, and 7 feet for on-street parking. *Id.* The Loop Road has a 60-foot right-of-way, no turn lanes at its intersections with Laurel Lane, and no bikeways, sidewalks, or on-street parking. The Loop Road is inconsistent with TSP, Table 7.

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<sup>1</sup> The Loop Road is not a "Downtown Collector" because it is not located "downtown."





Furthermore, the proposal significantly undermines the City's plan compliance with Goal 12's Transportation Planning Rule (TPR). The City's TSP expressly states that it is implemented by the BDC and even provided the terms of the BDC to be adopted to ensure street standards are complied with (Section 7, p 6-27). In other words, the BDC standards that the proposal authorizes the City to waive for whatever reason, are standards that implement the City's TSP. In fact, it is precisely the BDC requirements the proposal purports to authorize the City to waive, that the City's TSP *uses to justify* the City's compliance with the state Transportation Planning Rule in the TSP at Section 8 entitled "Transportation Planning Rule Compliance, which includes among other things the following compliance table:

### **Implementation of a Transportation System Plan**

#### ***Plan Review and Coordination***

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Consistent with ODOT and other applicable plans.</li> </ul> | <p>See Section 7: Policies and Land Use Ordinance Modifications</p> |
|--|---|

#### ***Adoption***

- |  |                          |
|--|--------------------------|
| <ul style="list-style-type: none"> <li>• Is it adopted?</li> </ul> | <p><i>To follow.</i></p> |
|--|--------------------------|

#### ***Implementation***

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Ordinances (facilities, services and improvements; land use or subdivision regulations).</li> </ul> | <p>Included in Section 7: Policies and Land Use Ordinance Modifications.</p> |
|--|--|

Another basis the City used to justify compliance with the state Transportation Planning Rule was the promise to provide bicycle and pedestrian facilities when the City improves roadways:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Bikeway needs.</li> <li>• Pedestrian needs.</li> </ul> | <p>Future bicycle and pedestrian improvements are to be made in conjunction with roadway improvements to provide cyclists and pedestrians with full accessibility to City of Boardman's street system. Plans for these facilities are shown in Figure 14 of Section 5: Transportation System Plan.</p> |
|---|--|

Thus, the proposed BDC amendment that purports to give the City the authority to waive the BDC requirements that were adopted under the City's TSP under Section 7 to demonstrate the City's compliance with the state Transportation Planning Rule, violates the City TSP. See TSP Section 7, p 20-27 ("Bikeways shall be included on all new arterials and collectors within the Urban Growth Boundary except on limited access freeways." Sidewalks shall be included on all new streets within the Urban Growth Boundary except on limited access freeways." It is the policy of the City of Boardman to plan and develop a network of streets, accessways, and other



improvements, including bikeways, sidewalks, and safe street crossings to promote safe and convenient bicycle and pedestrian circulation within the community.”) TSP Table 1 provides:

#### Street Standards

**Table 1**  
**Recommended Street Standards**

Classification	Travel Lane Width	Center Turn Lane/Median Width	Parking Width	Planter	Sidewalk Width	Right-of-Way Width
Arterial	12' (2)	12'	None	12'	10'	80'
Collector A	12' (2)	8' swale/pat h	8'	None	6'	52'
Collector B	12' (2)	None	8'	4'	6'	60'
Local Commercial/Resid.	12' (2)	None	8'	4'	6'	60'
Local Residential	14' (1)	--	7'	6'	6'	52'
Alley	15-20'	--	--	--	--	20'
Multi-use Path	10'	--	--	--	10'	10'

The TSP states that The City of Boardman shall protect the function of existing or planned roadways or roadway corridors through the application of appropriate land use regulations.” And states that “The City of Boardman shall protect the function of existing and planned roadways as identified in the Transportation System Plan.”

The Loop Road (Yates and Devin) was unlawfully developed by the City in a manner that is inconsistent with the City’s comprehensive plan, TSP and POM IAMP and LUBA has so held. The proposal that purports to authorize that inconsistency is just as inconsistent with the City’s Comprehensive Plan and TSP. And compounding that error, the proposal purports to waive requirements that the City used to justify the City’s compliance with the state Transportation Planning Rule and that means that if the proposal is adopted that the City would be out of compliance with the TPR. Further, since the state TPR implements statewide planning Goal 12 (Transportation), that means the proposal violates Goal 12.

#### **The Proposal Violates Goal 2 by Making the BDC Superior to the Comprehensive Plan and TSP.**

Goal 2 requires that the City’s land use implementing measures (the BDC) conform to the comprehensive plan. The proposal turns Goal 2 on its head, making the BDC superior to the comprehensive plan by allowing the City to ignore the comprehensive plan requirements that use the term “shall” (discussed above) at the whim of the City.

The City cannot adopt the proposal without first amending the comprehensive plan. The proposal is not consistent with Goal 2.

**The Proposal Directly Violates the State Transportation Planning Rule (TPR).**

The findings/staff report erroneously fail to address the TPR. The proposal amends a land use regulation. That means that OAR 660-012-0060 applies. OAR 660-012-0060 requires the City take certain actions for proposals that cause a “significant effect” on a transportation facility. Failing to do so means that the proposal is unlawful and may not be approved.

The proposal here causes a “significant effect on a transportation facility” as OAR 660-012-0060 defines that term but applies none of the requirements (“measures”) that OAR 660-012-0060 requires in that circumstance. The proposal causes a significant effect on a transportation facility because it authorizes the City to waive (for any facility in the City, including for the “Loop Road”), the “standards implementing a functional classification system.”

Those standards include the standards in BCD 3.4 as well as the standards in the TSP that pertain to minor collectors (including their width), that the proposal authorizes be waived for whatever reason.

A significant effect is also triggered here because the proposal ostensibly also allows the City to effectively “change the functional classification of an existing or planned facility” by failing to install any of the required infrastructure that would be needed for the particular classification to remain.

Finally, the proposal causes a significant effect on a transportation facility triggering the TPR because it allows the City to waive required transportation infrastructure standards and thereby authorize “Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility,” and/or “Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan” and/or “Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.”

Because the proposed amendment has a significant effect on the transportation system. The City is required to adopt one of the implementing measures set forth under OAR 660-012-0060(2).

Instead of addressing the TPR as required by Goal 12, the proposed findings seek to establish Goal 12 compliance by reference to the City’s TSP and to the POM IAMP. This is erroneous for at least two reasons. First, as outlined elsewhere, the proposal fails to comply with those provisions. Second, as the findings recognize, the proposed amendment must comply with the goals as well as those local provisions and fails to do so.. The finding’s failure to address Goal 12 and the TPR is fatal to the ordinance.

### **The Proposal Violates the Codification Rule of ORS 227.173(1).**

In *WaveSeer of Or., LLC v. Deschutes County*, 308 Or App 494, 501 (2021), the Court of Appeals explained that the county equivalent of ORS 227.173 (ORS 215.416(8)(a)), does not permit local governments to develop land use approval standards and criteria through quasi-adjudicative decision-making. Rather, the standards must be “reasonably discernible from provisions of the code itself.” Thus, under ORS 227.173, the City must approve or deny streets based upon standards and criteria that are set forth in the BDC. Nothing in the proposed new waiver provisions reasonably informs an applicant of how and when the City road standards will apply because the waiver standards are instead to be worked out through the process of adjudication. How does the City know what standards apply? How does an “other public agency know” what standards apply? How does a “private developer” know what standards apply? When are standards “not necessary”? When are standards “likely to be provided by adjacent private development?” No one knows, it is apparently to be determined on an “ad hoc” basis and that violates the codification requirement.

The latter regarding “private development” is particularly problematic because the City is only allowed under the “unconstitutional conditions doctrine of *Dolan v. City of Tigard*, 512 US 374 (1994), to impose conditions requiring “private development” to install road infrastructure that is roughly proportional to the impacts of the development. Where the City undertakes road improvements, it has no way to know when or what development will occur in the future and can only speculate about what is “likely to be provided by private development.” There is simply no lawful basis for the City to “waive” mandatory requirements of the City’s code, plan and TSP, including street standards.

### **City is not at Liberty to Collaterally Attack its Own Regulations as “Not Necessary.”**

We have already seen that the City determined that the BDC implementing requirements of the City TSP are necessary for the City to comply with the state Transportation Planning Rule. Further, the City adopted the Street requirements it purports to give itself authority to “waive” under the proposed amendment, on the basis that those requirements were necessary for the City to have a livable City, comply with the City Plan and TSP as well as the TPR. The proposal undermines the very fabric of the entire City planning program. It is unlawful and poor policy.

### **The Proposed Findings are Wholly Inadequate.**

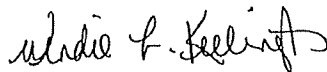
The findings purport to demonstrate compliance with the statewide planning goals and the City’s comprehensive plan. The findings fail. To be adequate, the findings must: (1) identify the relevant standards and criteria; (2) set out the facts relied upon; and (3) explain how the facts lead to the conclusion that the standards and criteria are satisfied. *Jacobsen v. City of Winston*, 51 Or. LUBA at 620–31 (2010). The findings for Goal 2 do not explain how the proposal complies with the TSP, IAMP or comprehensive plan and it does not. *Del Rio Vineyards v. Jackson County*, 70 Or LUBA 368 (2014).

The findings for Goal 9 and implementing City plan provisions are wholly inadequate to demonstrate the proposal complies with that goal and the City plan. The findings assert that the proposal is consistent with Goal 9 and implementing City plan requirements because "it would allow the City to develop infrastructure in support of employment lands at a cost that is affordable". That finding is a legal nonstarter. There are no facts to base that determination upon and none are cited. The proposed amendment does not support that conclusion; rather the proposed amendment will only serve to discourage economic development and drive up costs to develop Goal 9 land. That is because the required infrastructure will not be there and if such Goal 9 land is to develop at all, the proposal unlawfully purports to put the onus on private economic development to do everything. Similarly, the proposed findings for Goal 11 are inadequate. While they purport to recite Goal 11 and implementing plan requirements, they do nothing to demonstrate how it could possibly be that allowing the City to wholly waive public facilities requirements for public roads complies with Goal 11 and the cited (and other) City implementing plans and regulations that require in all cases that water, sewer and storm and other public facilities be installed in public streets. The proposal does not comply with Goal 11 and the County plan policies as required and that is probably why the findings do not demonstrate otherwise. As noted above, the Goal 12 findings are completely inadequate, wrong, and demonstrate nothing that would support the proposal.

Further, we note that the proposed amendment applies throughout the City. Therefore, the City is required to demonstrate compliance with Goal 10 (Housing) and City plan provisions implementing that goal and fails to do so. This is obviously necessary because the City going around and waiving public infrastructure requirements for public streets it decides for whatever reason that it does not want to pay for, merely discourages needed and other housing in the City and drives up its cost because the City has unlawfully punted the requirement to construct required infrastructure to private developers.

The proposal must be rejected. It is unwise and unlawful. Thank you for your consideration.

Very truly yours,



Wendie L. Kellington

WLK:wlk  
CC: Clients

Please see City of Boardman website for additional documents.

<https://www.cityofboardman.com/citycouncil/page/city-council-meeting-169>

Certified Record TOC Tallman IV (2022-062) (00811001xB8084) (297 KB)

Certified Record Tallman IV (2022-062) (00810667-2xB8084) (97 MB)

Signed appeal decision loop road july21 (323 KB)

FINAL loop road LUBA decision (930 KB)

January 10, 2012 Staff Report & Attachments (3 MB)

council\_2012\_02\_21 (23 KB)

pomfinal-iampwordinances (13 MB)

LUBA No. 2022-014 Order - Tallman (124 KB)

AS FILED Req to LUBA reactivate not dismiss appeal (131 KB)

**CITY OF BOARDMAN**  
**Monthly Council Financial Statement**  
**Period Ending October 31, 2023**  
**Fiscal Year Elapsed 33.33%**

**FISCAL YEAR 2023-2024**

**REVENUE**

A		B										C		D		E		F	
FUND #	Fund Description	2023 - 2024 BUDGET	Beginning Cash C/Over		Revenue Received This Month		Year to Date Revenue		(B+C) Total Revenue		(A-D) Remaining Expectations (over budget)		(D/A) % of Budget Received						
100	General Government	805,595																	
110	Public Safety - Police	3,105,745																	
125	Code Compliance	139,045																	
180	Facilities	281,670																	
195	Non-Departmental	11,260,845																	
100	GENERAL FUND	15,592,900																	
220	WATER FUND	1,604,500																	
230	SEWER FUND	1,769,650																	
240	GARBAGE FUND	1,327,700																	
250	STREET FUND	644,900																	
260	BUILDING FUND	15,680,870																	
300	GENERAL RESERVE FUND	7,312,500																	
320	WATER RESERVE FUND	3,090,510																	
330	SEWER RESERVE FUND	3,719,250																	
350	STREET RESERVE FUND	11,079,025																	
410	CAPITAL PROJECT FUND	10,607,115																	
510	GO BOND FUND	1,594,398																	
CITY TOTAL		74,023,318	41,943,335	3,526,480	7,275,014	49,218,349	24,804,969	66.49%											
815	CENTRAL URA DISTRICT	2,222,325	238,210.19	1,091	4,263	242,473	1,979,852	10.91%											
819	WEST URA DISTRICT	188,575	91,165.67	435	1,791	92,957	95,618	49.29%											
URA TOTAL		2,410,900	329,376	1,526	6,053	335,429	2,075,471	13.91%											

**CASH REPORT:**

as of 10/31/2023		Interest Rate	
Amount			
\$6,692	Bank of Eastern Oregon Police	5.00%	
\$3,040,380	Banner Bank Checking	-	
\$250,006	Banner Bank Savings	5.20%	
\$332,307	Bank of Eastern Oregon	5.00%	
\$37,251,325	OR Government Pool	5.00%	
\$242,591	CURA Government Pool	5.00%	
\$92,957	WURA Government Pool	5.00%	
\$615,623	Xpress Online Clearing	-	
\$0	Bank of Eastern Oregon - Layne	0.10%	
\$188,818	Bank of Eastern Oregon - R&G	0.10%	
<b>TOTAL CASH</b>			
<b>\$42,020,698</b>			
Cash Clearing - Utilities			
\$0.00			
Total			
<b>\$42,020,698</b>			

**EXPENDITURES**

		G	H		I		J	
		(G/A)						
Expenditures This Month	Year to Date Expenditures	(A-G)		% of		(D-G)		
		Unexpended Budget	Expended Budget	Fund Balance	Fund #			
49,722	181,225	624,370	22.50%		100			
175,050	757,593	2,348,152	24.39%		110			
7,934	40,252	98,793	28.95%		125			
13,132	49,163	232,507	17.45%		180			
(3,955)	54,141	11,206,704	0.48%		195			
241,883	1,082,368	14,510,526	6.94%	5,123,564	100			
102,618	329,217	1,275,283	20.52%	764,812	220			
48,110	193,312	1,576,338	10.92%	1,078,804	230			
67,267	132,163	1,195,537	9.95%	399,402	240			
38,204	146,405	498,495	22.70%	137,660	250			
949,226	1,915,328	13,765,542	12.21%	12,263,116	260			
0	0	7,312,500	0.00%	5,386,676	300			
83,444	125,632	2,964,878	4.07%	2,043,381	320			
4,500	12,500	3,706,750	0.34%	2,512,515	330			
5,051	53,057	11,025,968	0.48%	4,650,278	350			
1,063,610	3,543,098	7,064,017	33.40%	7,317,801	410			
0	0	1,594,398	0.00%	7,261	510			
2,603,912	7,533,080	66,490,232	10.18%	41,685,269				
0	0	2,222,325	0.00%	242,473	815			
0	0	188,575	0.00%	92,957	819			
0	0	2,410,900	0.00%	335,429				

2,603,911.74 7,533,079.95 68,901,132.25 10.18% 42,020,698

Current Month Net Cash Change (No URA)

2023-2024 Year to Date Net Cash Change (252,012)

922,568

335,429

7,261

7,317,801

4,650,278

2,512,515

2,043,381

5,386,676

12,563,116

137,660

399,402

1,078,804

764,812

5,123,564

**CITY OF BOARDMAN**  
**Monthly Council Financial Statement**  
**Period Ending November 30, 2023**  
**Fiscal Year Elapsed 41.67%**

**FISCAL YEAR 2023-2024**

**REVENUE**

A		B						C	D	E	F
FUND #	Fund Description	2023 - 2024 BUDGET	Revenue		Year to Date Revenue	(B+C)		(A-D) Remaining Expectations (over budget)	(D/A) % of Budget Received		
			Beginning Cash C/Over	Received This Month		Total Revenue					
100	General Government	806,045									
110	Public Safety - Police	3,105,745									
125	Code Compliance	139,045									
180	Facilities	281,670									
195	Non-Departmental	11,260,845									
100	GENERAL FUND	15,592,900	2,919,836.61	611,788	3,897,883	6,817,719	8,775,181	43.72%			
220	WATER FUND	1,604,500	518,445.94	97,380	672,963	1,191,409	413,091	74.25%			
230	SEWER FUND	1,769,650	1,000,997.97	81,178	352,296	1,353,294	416,356	76.47%			
240	GARBAGE FUND	1,327,700	252,165.00	68,211	347,611	599,776	727,924	45.17%			
250	STREET FUND	644,900	175,433.50	25,346	133,977	309,411	335,489	47.98%			
260	BUILDING FUND	15,680,870	11,835,455.02	448,668	2,791,658	14,627,113	1,053,757	93.28%			
300	GENERAL RESERVE FUND	7,312,500	5,309,648.79	21,328	98,355	5,408,004	1,904,496	73.96%			
320	WATER RESERVE FUND	3,090,510	2,106,646.02	8,384	70,751	2,177,397	913,113	70.45%			
330	SEWER RESERVE FUND	3,719,250	2,462,152.07	9,948	72,811	2,534,963	1,184,287	68.16%			
350	STREET RESERVE FUND	11,079,025	4,636,637.51	18,412	85,110	4,721,747	6,357,278	42.63%			
410	CAPITAL PROJECT FUND	10,607,115	10,721,051.46	28,973	168,821	10,889,872	(282,757)	102.67%			
510	GO BOND FUND	1,594,398	4,865.02	262,650	265,045	269,910	1,324,488	16.93%			
CITY TOTAL			41,943,335	1,682,266	8,957,280	50,900,615	23,122,703	68.76%			
815	CENTRAL URA DISTRICT	2,222,325	238,210.19	16,397	20,659	258,869	1,963,456	11.65%			
819	WEST URA DISTRICT	188,575	91,165.67	18,566	20,357	111,522	77,053	59.14%			
URA TOTAL			329,376	34,962	41,016	370,392	2,040,508	15.36%			

**CITY OF BOARDMAN GRAND TOTALS**

76,434,218 42,272,711 1,717,228 8,998,296 51,271,007 25,163,211

810,666.90 8,344,318.72 68,090,752.79 11.27% 42,926,688

**CASH REPORT:**

as of 11/30/2023

Amount	Interest Rate
Bank of Eastern Oregon Police	5.00%
Banner Bank Checking	-
Banner Bank Savings	5.30%
Bank of Eastern Oregon	5.00%
OR Government Pool	5.00%
CURA Government Pool	5.00%
WURA Government Pool	5.00%
Xpress Online Clearing	-
Bank of Eastern Oregon - Layne	0.10%
Bank of Eastern Oregon - R&G	0.10%
<b>TOTAL CASH</b>	
<b>\$42,926,688</b>	
Cash Clearing - Utilities	\$0.00
<b>Total</b>	
<b>\$42,926,688</b>	

Current Month Net Cash Change (No URA)

871,599

2023-2024 Year to Date Net Cash Change

653,977

**EXPENDITURES**

G/A									
G			H		I		J		
Expenditures This Month	Year to Date Expenditures	(A-G)		(G/A)		(D-G)			
		Unexpended Budget	Expended Budget	% of		Fund Balance	Fund #		
60,903	242,129	563,916	30.04%					100	
187,630	945,223	2,160,522	30.43%					110	
8,849	49,101	89,944	35.31%					125	
21,137	70,300	211,370	24.96%					180	
51,631	105,771	1,115,074	0.94%					195	
330,150	1,412,927	14,180,826	9.06%			5,404,792		100	
80,272	409,551	1,194,949	25.53%			781,858		220	
51,183	244,557	1,525,093	13.82%			1,108,737		230	
62,663	194,826	1,132,874	14.67%			404,950		240	
23,870	170,368	474,532	26.42%			139,042		250	
131,592	2,046,865	13,634,005	13.05%			12,580,247		260	
0	0	7,312,500	0.00%			5,408,004		300	
60,500	186,132	2,904,378	6.02%			1,991,265		320	
16,452	28,952	3,690,298	0.78%			2,506,010		330	
21,263	74,320	11,004,705	0.67%			4,647,428		350	
32,721	3,575,819	7,031,296	33.71%			7,314,053		410	
0	0	1,594,398	0.00%			269,910		510	
810,667	8,344,319	65,679,853	11.27%			42,556,296			
0	0	2,222,325	0.00%			258,869		815	
0	0	188,575	0.00%			111,522		819	
0	0	2,410,900	0.00%			370,392			

**CITY OF BOARDMAN GRAND TOTALS**

810,666.90 8,344,318.72 68,090,752.79 11.27% 42,926,688

810,666.90 8,344,318.72 68,090,752.79 11.27% 42,926,688





## Chamber and BCDA December 2023 Report

### Boardman Chamber Membership Updates:

- We ended the year with 266 members and 2 new members for December 2023. Our chamber continues to grow and offer support to our community and businesses to make Boardman a Great Place to Live. We are looking forward to a wonderful 2024 and providing our members with value through a great partnership.
- Our **new members** that joined our chamber recently:
  - *Kerns Brothers, LLC – they focus on motors, pumps and pivots for Industry and Agriculture.*
  - *Café Cultura – a local coffee shop that is located in Boardman.*
- 2024 Membership renewals have been sent out to our members. If you are a member, you will receive your membership via email with an attached invoice that can be paid online. We look forward to working with all of you for another year.

### Boardman Chamber of Commerce Events

- **34<sup>th</sup> Distinguished Citizens Awards Banquet:** Our event will be held on Friday, **March 8<sup>th</sup>**, at 6:00 PM, at the Port of Morrow Riverfront Center. Nominations will be closing at the beginning of January. Catering will be provided by GG's Smokehouse Catering by Amber Inc., drinks served by Destination Bartending, and decorations by Party Poppin' by Rosa. We are still looking for sponsors for this year's event, your support makes this event and all of our other events successful. Tickets will go on sale the first of the year, those will be able to be purchased online or in the chamber office.

### Past Chamber Events:

- **Christmas Tree Lighting:** The annual Christmas Tree Lighting was on December 2<sup>nd</sup> at 6 pm at the SAGE Center. We had our largest turnout ever this year and we love seeing all of the kiddos dressed up for the evening of celebration and singing. AWANA performed its Nativity Pageant and Learning Adventure Pre-School held its yearly school Christmas

Concert. After the performances, the children took pictures with Santa Claus. Mid-Columbia Bus Company handed out Hot cocoa and Cookies to everyone. The children who took pictures with Santa received a special gift from the Boardman Chamber, a book titled "The Night Before Christmas". It was an enjoyable night, and we can't wait for next year.

- **Chamber Talk w/ Torrie featured Umatilla-Morrow Head Start Inc.:** Another thrilling episode of Talk w/Torrie on our Facebook Live Podcast session! This time, we have the honor of hosting two incredible guests: Suellen Whitlock, Director of Head Start & Early Childhood Services, and Bobbi Harrison, Assistant Director of Head Start & Early Childhood Services. They have in their program over 800 children and over 250 staff members. They're shaping a positive impact on children, families, and the communities around them. Fun facts about UMHS, they are 35 years old, and Head Start is 58 years old. They also serve 8 counties, not just Umatilla and Morrow County in Oregon.
- **The 4th Quarter Luncheon was December 20th:** The Boardman Park & Recreation District was our title sponsor for our luncheon. Boardman Park and Marina provided an update from their community meeting that they held a while back and the chamber had a presentation by Lunar Cow Publishing. They shared information about the process and timeline of the new **Chamber Visitor Guide**. It was great to see everyone that attended, there was a lot of wonderful stories and information provided by those that attended.
- **2024 Luncheon Schedule** will be: March 20<sup>th</sup>, guest speaker is Rep Greg Smith, June 19<sup>th</sup>, title sponsor is Murray's Drug, September 18<sup>th</sup>, and December 18<sup>th</sup>.

## Member Events

- **SAGE Center Events:**
  - The next SAGE Saturday will be January 6th from 9 am – 12 P.M. Bring your kids to create fun crafts as a family.
  - The SAGE Center Movie Nights" this next month will be Friday, January 12<sup>th</sup> they will be showing "The SUPER MARIO BROS Movie". This Movie night will be sponsored by The Oregon Trail Library District.

**To find more information on events and information, please follow our social media platforms, website, and YouTube channel.**

## Boardman Community Development Association

With the 2023 CREZ II funding of \$1,144,936.00, BCDA expended much of the funds for projects around Boardman that included a sidewalk along Columbia Ave, new lights on the RHS Jr/Sr football and soccer field, Home Buyers Incentive program, and many more impactful projects. Here is an overview of our investments in each of these categories for the past year!

Categories	Invested Value
Recreation	\$29,647.88
Community Development	\$467,862.98
Business Development	\$5,814.00
Home Buyers Grant	\$210,000.00*
Education	\$355,321.00
Day Care Programs	\$25,000.00
Youth Sports Registration	\$6,325.00
Retail Incubator Project	\$110,358.50**
Administration	\$75,600.00
2024 Retail Space Investment	\$239,321.74
Total Investment in Boardman	\$1,144,936.00

Thank you for your time. If you have any questions, please feel free to call 541-571-2394 or email [torrie@boardmanchamber.org](mailto:torrie@boardmanchamber.org) anytime.

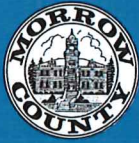
Looking for more information, please visit [www.boardmanchamber.org](http://www.boardmanchamber.org) or call our office at 541-481-3014.

SAVE THE DATE









# Ambulance Service Area Plan Update

December 20, 2023



## Why is this necessary?



The County is statutorily responsible to manage ambulance services

- ORS 682 outlines responsibility of counties and the development of ambulance service area plans (ASA)
- Since at least 1998, management over the ASA in Morrow County had been transferred to Morrow County Health District (MCHD). This included appointment of the EMS Advisory Committee, determination of providers, and review of performance. As MCHD was the sole provider of ambulance service in the County, this created a situation where the contractor is in control of the contract.



## What is being done?



While using the previous ASA as a template, the draft ASA includes updates in language and process to reflect the following changes:

- Re-establish the County as the authority over ASA
- Establishes an independent EMS Advisory Committee to review the services and provide recommendations to the Board of Commissioners
- Establish three (3) ambulance services areas within the County to provide the option of multiple ambulance providers if appropriate
- Updates technical requirements to refer to OHA & ORS standards rather than specific details that may become outdated

## Differences in the roles for the EMS Advisory Committee

### Historic

- Appointed by MCHD Board
- Heavy representation of MCHD personnel (8 of 10 positions)
- Used to provide peer-review and case-by-case performance review
- Review overall performance of ambulance services

### Proposed

- Appointed by Board of Commissioners
- Review overall performance of ambulance services
- Reconcile system performance issues
- Hear and reconcile issues between providers
- Consider requests for new providers
- Review ASA every 5 years

## Where are we at in the process?



### Anticipated Process

- Internal development of draft
- Input on draft from parties previously interested in providing ambulance services
- *Update and initial draft review by OHA*
- Final updates, feedback, OHA final review
- Public hearing and adoption/certification of ASA by Board of Commission
- Advertise/post for ambulance providers
- Designation of initial ambulance provider(s)

## Options for determining initial providers

### Board of Commission makes determination

#### PRO:

- Follows statutory guidelines
- Quickest solution

#### CON:

- Lack of expertise
- Overly exposes EMS services to a potential political decision

### New EMS Advisory Committee recommends

#### PRO:

- Follows ASA

#### CON:

- Committee would not be fully formed without provider representatives
- Potential conflict in having interested providers on committee

### Ad-Hoc Committee recommendation

#### PRO:

- Would rely on industry/public experts to review initial proposals

#### CON:

- Not currently outlined in ASA
- Determination of committee could be seen as politically slanted

## MCHD Notice Consideration

### DELIVERED ELECTRONICALLY AND BY MAIL

To the Morrow County EMS Director and Board of Commissioners

This letter serves as 90 days' FORMAL WRITTEN NOTICE, regarding the District's decision to discontinue ambulance service in Morrow County under the current proposed draft ASA Plan prepared by Morrow County.

Since September, we have attempted to engage the County in a dispute. Most importantly, resolving this issue is urgent due to Morrow County on countless occasions. Additionally, as was

Original consideration was to work with MCHD to provide continuing ambulance services during implementation of the new ASA. With the 90-day notice to discontinue service issued on December 13, 2023, Morrow County will need to have an alternate in place by Tuesday, March 12, 2024. The following options will be explored to ensure continuation of services after that date:

- Continued discussion with MCHD for services
- New providers assume ambulance services
- Interim operations through agreements with neighboring providers
- Interim operations under County management
- A combination of the above options

## Questions?

**CITY OF BOARDMAN  
RESOLUTION NO. 1-2024**

**A RESOLUTION DECLARING CITY OF BOARDMAN  
PUBLIC PROPERTY AS EXCESS**

**WHEREAS,** the City of Boardman owns and operates equipment and vehicles; and

**WHEREAS,** certain equipment which may not have effective use remaining has become excess to the needs for which it was acquired and utilized; and

**WHEREAS,** in the interest of cost efficiency, equipment which the expense of repair/renovation exceeds the value of the equipment to the operations of the City, are judged by the City Council to best be disposed of.

**NOW, THEREFORE BE IT RESOLVED,** that the following items of equipment currently owned and operated by the City of Boardman as declared EXCESS and shall forthwith be disposed:

- 2015 Ford Interceptor Utility VIN# 1FM5K8AR6FGA57665

Passed by the Boardman City Council this 2<sup>nd</sup> day of January, 2024.

CITY OF BOARDMAN

\_\_\_\_\_  
Mayor – Paul Keefer

\_\_\_\_\_  
Council President – Heather Baumgartner

\_\_\_\_\_  
Councilor – Cristina Cuevas

\_\_\_\_\_  
Councilor – Karen Pettigrew

\_\_\_\_\_  
Councilor – Brenda Profitt

\_\_\_\_\_  
Councilor – Ethan Salata

\_\_\_\_\_  
Councilor – Richard Rockwell

ATTEST:

\_\_\_\_\_  
Amanda Mickles – City Clerk

**CITY OF BOARDMAN  
RESOLUTION 2-2024**

**A RESOLUTION TO DECREASE CONTINGENCY AND TO INCREASE  
2023-24 EXPENDITURES FOR PERSONNEL SERVICES, MATERIALS AND SERVICES AND  
CAPITAL PROJECTS**

**WHEREAS**, ORS 294.463 allows the City to transfer Contingencies and increase appropriations within a fund by resolution; and

**WHEREAS**, the City's actual cost for property and liability insurance increased more than originally budgeted; and

**WHEREAS**, the City anticipates increase in costs, due to current employee negotiations, affecting various funds and programs; and

**WHEREAS**, the contract for park maintenance was renegotiated after the start of the fiscal year and the new amount will exceed the budget; and

**WHEREAS**, the need for additional general engineering and other professional services will incur additional expenses; and

**WHEREAS**, the public works buildings and equipment have incurred unexpected repairs, increases in the expense allocations for regular repairs and maintenance costs, are needed; and

**WHEREAS**, the City finds it necessary and in the best interest for the community to provide additional garbage clean-up vouchers an increase in costs will be necessary; and

**WHEREAS**, the Building Department went live with an online portal, electronic processing fees have dramatically increased, as the majority of users pay with debit/credit cards; and

**WHEREAS**, the Building Department's expansion has incurred multiple change orders, mostly with technology, alarm systems, and wiring. Therefore, the need to increase the allocation to construction costs; and

**WHEREAS**, the Building Department will purchase a vehicle, as available through government procurement contracts and in their open window of ordering, the timing will fall in this fiscal year.

**THEREFORE, BE IT RESOLVED**, that the Boardman City Council hereby authorizes the Contingency transfers and appropriations shown below, for the fiscal year 2023-24, for the following purposes:

GENERAL FUND – GENERAL GOVERNMENT (100)

Personnel Services	\$	12,000
Materials and Services	\$	18,500
Contingency	\$	(30,500)
Fund change	\$	-- 0 --

GENERAL FUND – PUBLIC SAFETY (110)

Personnel Services	\$	63,500
Materials and Services	\$	16,900
Contingency	\$	(80,400)
Fund change	\$	-- 0 --



**CITY OF BOARDMAN  
RESOLUTION 2-2024**

GENERAL FUND – CODE COMPLIANCE (125)

Materials and Services	\$	1,200
Contingency	\$	(1,200)
Fund change	\$	-- 0 --

GENERAL FUND – FACILITIES (180)

Materials and Services	\$	28,500
Contingency	\$	(28,500)
Fund change	\$	-- 0 --

WATER FUND (220)

Personnel Services	\$	22,000
Materials and Services	\$	12,400
Contingency	\$	(34,400)
Fund change	\$	-- 0 --

SEWER FUND (230)

Personnel Services	\$	19,000
Materials and Services	\$	14,500
Contingency	\$	(33,500)
Fund change	\$	-- 0 --

GARBAGE FUND (240)

Materials and Services	\$	12,000
Contingency	\$	(12,000)
Fund change	\$	-- 0 --

STREET FUND (250)

Personnel Services	\$	29,000
Materials and Services	\$	1,900
Contingency	\$	(30,900)
Fund change	\$	-- 0 --

BUILDING FUND (260)

Personnel Services	\$	29,000
Materials and Services	\$	67,600
Capital Projects	\$	224,000
Contingency	\$	(320,600)
Fund change	\$	-- 0 --

**BE IT FURTHER RESOLVED,** that this resolution is effective immediately upon its passage.

**CITY OF BOARDMAN  
RESOLUTION 2-2024**

Dated this 2<sup>nd</sup> day of January 2024.

**CITY OF BOARDMAN**

\_\_\_\_\_  
Mayor – Paul Keefer

\_\_\_\_\_  
Council President – Heather Baumgartner

\_\_\_\_\_  
Councilor – Cristina Cuevas

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\_\_\_\_\_  
Councilor – Karen Pettigrew

\_\_\_\_\_  
Councilor – Richard Rockwell

\_\_\_\_\_  
Councilor – Ethan Salata

ATTEST:

\_\_\_\_\_  
Amanda Mickles – City Clerk

# City of Boardman

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## 2024 - 2025 Budget Calendar

Jan. 2	Appoint Budget Officer and Budget Committee
Feb. -May	Prepare proposed budget
Apr 30	Publish 1 <sup>st</sup> Notice of Budget Committee Meeting (5-30 days prior to meeting)
May 7	Publish 2 <sup>nd</sup> Notice of Budget Committee Meeting (if online: >= 10 days prior to the meeting)
May 14	Budget Committee meeting ..... 7:15 pm
May 21	Second Budget Committee meeting (if needed) ..... 7:15 pm
May 28	Publish Notice of Budget Hearing & Budget Summary (5-30 days prior to meeting)
June 4	Budget Hearing ..... 7:15 pm
June 4	Enact Resolution to Adopt
July 15	Submit tax certification documents to Tax Assessor
Sept. 30	Send copy of all budget documents to County Clerk

**RAGNA TENEYCK, JD, LL.M**  
**740 SW MT. ADAMS AVE.**  
**BOARDMAN, OR 97818**  
**ragnalaw@hotmail.com**  
**208-412-8008**

December 10, 2023

Delivered to Carla McLane

At mclanec@cityofboardman.com

RE: Letter of Interest Planning Commission

Vacancy beginning January 1, 2024

Dear Boardman City Council Members,

As my term on the Boardman Planning Commission ("Commission") comes to an end on December 31, 2023, I would like to thank you for the opportunity to serve on the Commission.

During the last several years, I have served on the Oregon Trail Library Budget Committee and the Lexington Airport Advisory Committee (collectively, "Committees"). While serving on these Committees, I have learned more about the continuing growth and opportunities in Morrow County.

It is my hope that with my service on the above referenced Committees, you would consider appointing me to serve on the Commission for an additional term. If you have any questions that you need answered to consider me for appointment to the Commission, please let me know.

Respectfully Submitted,

Ragna TenEyck

November 19, 2023

Planning Official

City of Boardman

200 City Center Circle

Boardman, Oregon 97818

To whom it may concern,

I would like the consideration of reappointment to the position of Planning Commission for the City of Boardman.

Kind regards,

Zack Barresse





**BOARDMAN POLICE DEPARTMENT**  
**PATROL STATISTICS (UNAUDITED)**  
**CALENDER YEAR 2023**

Statistics	Jan.	Feb.	Mar.	Apr.	May	Jun.	July	Aug.	Sep.	Oct.	Nov.	Dec.	Annual Total
Total Incidents	334	323	349	418	498	374	342	348	430	446	372	403	4637
Calls for Service	178	210	182	253	273	235	253	242	238	199	216	185	2664
Officer Initiated Incidents	156	113	167	165	225	139	89	106	192	547	156	218	2273
Traffic stops	53	29	37	35	48	38	25	26	48	73	51	74	537
Other OIA Incidents	103	84	130	130	177	101	64	80	144	174	105	144	1436
Bus/Building Checks	7	3	5	4	3	1	4	6	21	17	5	3	79
Veh/Ped check	43	38	52	51	71	54	44	41	68	64	54	80	660
Total Officer Reports	45	42	48	66	87	31	35	49	45	59	39	48	594
CIS Conversion	0	0	0	0	0	0	0	0	0	0	0	0	0
Crash	2	3	4	2	3	1	0	3	1	3	3	5	30
Felony	4	4	5	10	7	7	8	8	2	8	5	2	70
Information Case	5	5	8	14	9	5	1	7	10	17	9	9	99
Misdemeanor	16	13	13	18	16	14	15	19	12	22	17	22	197
Violation	4	7	6	3	41	0	1	4	2	1	0	2	71
Voided	2	1	1	3	0	0	0	0	0	0	1	1	9
Unclaissified Reports	12	9	11	16	11	4	10	8	18	8	4	7	118
Total Misdemeanor & Felony Arrest	11	8	6	11	9	13	8	12	6	20	16	9	129
Misdemeanor Arrests	9	8	6	8	8	9	4	9	4	15	14	8	102
Felony Arrests	2	0	0	3	1	4	4	3	2	5	2	1	27
Total Citations	14	15	12	4	7	10	3	13	7	15	14	7	121
Code	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal	2	0	0	0	0	0	0	0	0	0	1	0	3
Violation	12	15	12	4	7	10	3	13	7	15	13	7	118
Unclassified	0	0	0	0	0	0	0	0	0	0	0	0	0
FI's	0	0	1	0	1	1	0	0	0	0	0	0	3

Note: Calender year end summary report will project slight different totals due to RIMS variations,.

Building Department Report  
2023

2023	Jan.	Feb.	Mar.	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals
<b>Total Permits Sold</b>	76	35	61	40	37	70	48	74	43	66	42	36	628
<b>Boardman</b>													
Permits Sold	40	8	15	7	19	21	10	30	18	14	11	10	203
Manufactured Placement Permit	1	0	0	0	2	1	1	1	2	0	0	0	8
New Home Construction	12	1	2	1	1	2	1	7	2	2	0	0	31
Multi Family Units						10							10
<b>Morrow County(excludes 97818)</b>													
Permits Sold	13	7	13	10	7	12	3	8	10	19	16	12	130
Manufactured Placement Permit	0	0	2	0	0	0	0	0	0	0	0	1	3
New Home Construction	0	1	0	1	0	2	0	0	1	0	0	1	6
<b>Morrow County - 97818</b>													
Permits Sold	13	7	12	14	1	21	30	24	5	18	8	5	158
Manufactured Placement Permit	0	0	0	0	0	1	0	0	0	0	0	0	1
New Home Construction	1	0	0	0	0	0	0	0	0	0	1	0	2
<b>Irrigon</b>													
Permits Sold	1	2	5	1	4	6	0	7	1	2	2	2	33
Manufactured Placement Permit	0	0	0	0	0	0	0	0	0	0	0	0	0
New Home Construction	0	0	0	0	0	0	0	2	0	1	1	0	4
Multi - Family (units)			4										4
<b>State Electrical</b>													
State Electrical	2	6	8	6	1	2	0	0	0	0	0	0	25
<b>Gilliam County</b>													
Permits Sold	7	5	8	2	5	8	5	5	9	13	5	7	79
Manufactured Placement Permit	1	0	2	0	0	0	1	1	0	0	0	0	5
New Home Construction	0	0	0	0	0	0	0	0	0	2	0	0	2

# Public Works Department

## December 2023

20 Locates to mark water and sewer lines for customers prior to digging

15 Work Orders

9 New Meter Installs

1054 Meter Reads

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total New Meters Installed
0	2	2	1	3	3	3	14	3	8	0	9	48

Besides our daily work routines, Public Works also did the following throughout the month:

- Repaired water leak at Columbia Ave.
- Replaced all Exit signs at City Hall
- Repaired leak at Lift Station #3
- Dead animal pickup
- GIS mapping of utilities
- Serviced four city vehicles
- Responded to a dog call
- Serviced the speed trailer
- Finished putting up Christmas lights and decorations
- Lock Out Tag Out Safety Training, First Aid & CPR, AED Training



## City of Boardman

200 City Center Circle  
P.O. Box 229  
Boardman, OR 97818  
Phone: (541) 481-9252  
Fax: (541) 481-3244  
TTY Relay 711  
[www.cityofboardman.com](http://www.cityofboardman.com)

### **City Manager December Report**

The following December report will give an overview of the objectives accomplished this past month, as well as future plans:

1. City Hall Christmas party was a huge success. We had around 58 in attendance.
2. Our first newsletter was submitted and will be available in North Morrow Times, in the January edition. Subsequent copies will be found on our website, as well as in the paper.
3. Initial Charter update workshop will be held February 6<sup>th</sup> at 6pm. Please continue to review and share thoughts for improvement areas.
4. Pavement evaluation study complete and will be incorporated into the CIP.
5. Safety Update:
  - a. All city staff have been First Aid/CPR/AED certified
  - b. AED's will be held in city vehicles
  - c. Chief Stokoe is working on City of Boardman Emergency Plan
  - d. City Health and Safety Manual will be updated by February
  - e. Creating electronic Material Safety Data Sheets
6. IGA with Park District to allow development of Parks Master Plan
7. Council **Annual Training Videos (February):**
  - a. Elected Essentials
  - b. Preventing Workplace Discrimination and Harassment
  - c. Whistleblower Rights
8. Community Outreach....(This will be a regular section that I will include with each report. This is a way for myself and the council to keep in mind the importance of ongoing outreach to our community and highlight what has been done and will be upcoming for the future.)
  - a. BIZ Oregon listening session
  - b. Park District CEO, George Shimer
  - c. County Loop discussion

## Boardman Projects:

Project	Update
Annual Sidewalk Improvement:	Wilson Rd & Faler Ln
Bella Vista sidewalk:	Project completion during after phase 6 development
Bio-solids removal project from lagoon:	2024 completion
Boardman and Main stoplight:	Under Design and public engagement
BPA Greenspace project:	Authorization from BPA in process
Capital Improvement Plan:	Under financial analysis
Code Updates:	-TSP scope of work being developed with ODOT -Development code audit to be reviewed by planning commission
NW Columbia Ave (water/sewer):	In design, January bid
SE Front St paving and sidewalk:	Bid awarded to Bolen Construction
Septage Receiving station:	Headworks screen request for proposal
Water project:	Reservoir substantial complete, booster pump building under construction, collector well 3 under construction

BID TABULATION									
ANDERSON PERRY & ASSOCIATES, INC. P.O. Box 1107 La Grande, Oregon 97850					PROJECT: City of Boardman, Oregon S.E. Front St. and S.E. 1st St. Improvements - 2024				
200 City Center Circle, Boardman, Oregon 97818					OWNER: City of Boardman, Oregon P.O. Box 229 / 200 City Center Circle Boardman, Oregon 97818				
BIDDERS					BIDDER'S ESTIMATE				
Item	Description	Unit	Amount	Engineer's Estimate		Bolen Construction, Inc.		Culbert Construction, Inc.	
				Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Mobilization/Demobilization	L.S.	1	\$65,620.00	\$65,620.00	\$35,500.00	\$35,500.00	\$83,891.57	\$83,891.57
2	Temporary Protection and Direction of Traffic/Project Safety	L.S.	1	\$50,000.00	\$50,000.00	\$16,000.00	\$16,000.00	\$9,446.95	\$9,446.95
3	Demolition	L.S.	1	\$50,000.00	\$50,000.00	\$32,500.00	\$32,500.00	\$21,309.68	\$21,309.68
4	Earthwork	L.S.	1	\$60,000.00	\$60,000.00	\$66,700.00	\$66,700.00	\$92,146.67	\$92,146.67
5	Asphalt Pavement Sawcutting	L.F.	500	\$3.00	\$1,500.00	\$4.00	\$2,000.00	\$2.47	\$1,235.00
6	Geotextile Fabric	S.Y.	13,100	\$2.00	\$26,200.00	\$1.02	\$13,362.00	\$1.08	\$14,148.00
7	Base Rock	Ton	8,820	\$35.00	\$308,700.00	\$27.50	\$242,550.00	\$29.68	\$261,777.60
8	Asphalt Concrete Pavement	Ton	3,040	\$130.00	\$395,200.00	\$135.50	\$411,920.00	\$123.18	\$374,467.20
9	Driveway Approach	S.F.	1,900	\$15.00	\$28,500.00	\$8.14	\$15,466.00	\$13.10	\$24,890.00
10	Concrete Curb and Gutter	L.F.	2,320	\$25.00	\$58,000.00	\$17.65	\$40,948.00	\$20.93	\$48,567.60
11	Pedestrian Curb	L.F.	60	\$30.00	\$1,800.00	\$43.00	\$2,580.00	\$67.08	\$4,024.80
12	Concrete Valley Gutter	L.F.	755	\$60.00	\$45,300.00	\$41.20	\$31,106.00	\$50.77	\$38,331.35
13	Concrete Sidewalk	S.F.	9,785	\$8.00	\$78,280.00	\$6.50	\$63,602.50	\$7.85	\$76,812.25
14	Americans with Disabilities Act Ramp	Each	6	\$3,000.00	\$18,000.00	\$3,302.50	\$19,815.00	\$3,529.41	\$21,176.46
15	12-inch Polyvinyl Chloride Storm Drain Pipe	L.F.	310	\$80.00	\$24,800.00	\$43.00	\$13,330.00	\$73.87	\$22,899.70
16	Catch Basin	Each	6	\$2,500.00	\$15,000.00	\$1,900.00	\$11,400.00	\$2,150.58	\$12,903.48
17	Storm Drain Manhole	Each	1	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$3,026.52	\$3,026.52
18	Drywell	Each	3	\$15,000.00	\$45,000.00	\$10,000.00	\$30,000.00	\$21,029.81	\$63,089.43
19	Infiltration Pond	L.S.	1	\$35,000.00	\$35,000.00	\$15,000.00	\$15,000.00	\$17,680.69	\$17,680.69
20	Fire Hydrant Relocation	L.S.	1	\$3,500.00	\$3,500.00	\$2,600.00	\$2,600.00	\$3,398.88	\$3,398.88
21	Pavement Striping, Markings, and Signing	L.S.	1	\$45,000.00	\$45,000.00	\$27,682.39	\$27,682.39	\$24,579.50	\$24,579.50
22	Fencing	L.F.	160	\$125.00	\$20,000.00	\$85.00	\$13,600.00	\$59.29	\$9,486.40
23	Adjustment of Utility Cover to Grade	Each	12	\$800.00	\$9,600.00	\$500.00	\$6,000.00	\$397.86	\$4,774.32
24	Irrigation System	L.S.	1	\$50,000.00	\$50,000.00	\$48,100.00	\$48,100.00	\$61,501.07	\$61,501.07
25	Planting	L.S.	1	\$40,000.00	\$40,000.00	\$36,315.00	\$36,315.00	\$4,412.49	\$4,412.49
26	Ballast Rock	Ton	400	\$50.00	\$20,000.00	\$40.00	\$16,000.00	\$73.82	\$29,528.00
TOTAL BID PRICE					\$1,500,000.00		\$1,219,076.89		\$1,329,495.61
									\$1,360,830.00



BID TABULATION												
ANDERSON PERRY & ASSOCIATES, INC. P.O. Box 1107 La Grande, Oregon 97850 Bid Opening: 2:00 p.m., December 14, 2023, at Boardman City Hall, 200 City Center Circle, Boardman, Oregon 97818				PROJECT: City of Boardman, Oregon S.E. Front St. and S.E. 1st St. Improvements - 2024				OWNER: City of Boardman, Oregon P.O. Box 229 / 200 City Center Circle Boardman, Oregon 97818				
				BIDDERS								
				Engineer's Estimate		Nelson Construction Corp.		Eastern Oregon Contracting		Premier Excavation, Inc.		
Item	Description	Unit	Amount	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	
1	Mobilization/Demobilization	L.S.	1	\$65,620.00	\$65,620.00	\$32,200.00	\$32,200.00	\$92,000.00	\$92,000.00	\$46,160.00	\$46,160.00	
2	Temporary Protection and Direction of Traffic/Project Safety	L.S.	1	\$50,000.00	\$50,000.00	\$17,630.00	\$17,630.00	\$22,000.00	\$22,000.00	\$22,500.00	\$22,500.00	
3	Demolition	L.S.	1	\$50,000.00	\$50,000.00	\$16,850.00	\$16,850.00	\$35,000.00	\$35,000.00	\$26,786.00	\$26,786.00	
4	Earthwork	L.S.	1	\$60,000.00	\$60,000.00	\$164,800.00	\$164,800.00	\$166,424.00	\$166,424.00	\$72,000.00	\$72,000.00	
5	Asphalt Pavement Sawcutting	L.F.	500	\$3.00	\$1,500.00	\$3.25	\$1,625.00	\$12.00	\$6,000.00	\$3.50	\$1,750.00	
6	Geotextile Fabric	S.Y.	13,100	\$2.00	\$26,200.00	\$0.70	\$9,170.00	\$1.75	\$22,925.00	\$1.41	\$18,471.00	
7	Base Rock	Ton	8,820	\$35.00	\$308,700.00	\$29.00	\$255,780.00	\$28.33	\$249,870.60	\$32.00	\$282,240.00	
8	Asphalt Concrete Pavement	Ton	3,040	\$130.00	\$395,200.00	\$129.00	\$392,160.00	\$121.28	\$368,691.20	\$116.50	\$354,160.00	
9	Driveway Approach	S.F.	1,900	\$15.00	\$28,500.00	\$22.00	\$41,800.00	\$9.93	\$18,867.00	\$14.36	\$27,284.00	
10	Concrete Curb and Gutter	L.F.	2,320	\$25.00	\$58,000.00	\$22.00	\$51,040.00	\$18.61	\$43,175.20	\$18.35	\$42,572.00	
11	Pedestrian Curb	L.F.	60	\$30.00	\$1,800.00	\$22.00	\$1,320.00	\$38.00	\$2,280.00	\$2,287.50	\$137,250.00	
12	Concrete Valley Gutter	L.F.	755	\$60.00	\$45,300.00	\$66.00	\$49,830.00	\$39.99	\$30,192.45	\$46.69	\$35,250.95	
13	Concrete Sidewalk	S.F.	9,785	\$8.00	\$78,280.00	\$6.00	\$58,710.00	\$7.50	\$73,387.50	\$7.49	\$73,289.65	
14	Americans with Disabilities Act Ramp	Each	6	\$3,000.00	\$18,000.00	\$1,730.00	\$10,380.00	\$3,200.00	\$19,200.00	\$4,036.00	\$24,216.00	
15	12-inch Polyvinyl Chloride Storm Drain Pipe	L.F.	310	\$80.00	\$24,800.00	\$95.00	\$29,450.00	\$62.00	\$19,220.00	\$53.22	\$16,498.20	
16	Catch Basin	Each	6	\$2,500.00	\$15,000.00	\$3,230.00	\$19,380.00	\$2,800.00	\$16,800.00	\$2,093.33	\$12,559.98	
17	Storm Drain Manhole	Each	1	\$5,000.00	\$5,000.00	\$6,880.00	\$6,880.00	\$15,000.00	\$15,000.00	\$3,285.00	\$3,285.00	
18	Drywell	Each	3	\$15,000.00	\$45,000.00	\$23,420.00	\$70,260.00	\$14,000.00	\$42,000.00	\$16,675.00	\$50,025.00	
19	Infiltration Pond	L.S.	1	\$35,000.00	\$35,000.00	\$16,350.00	\$16,350.00	\$7,500.00	\$7,500.00	\$28,000.00	\$28,000.00	
20	Fire Hydrant Relocation	L.S.	1	\$3,500.00	\$3,500.00	\$4,080.00	\$4,080.00	\$6,800.00	\$6,800.00	\$2,700.00	\$2,700.00	
21	Pavement Striping, Markings, and Signing	L.S.	1	\$45,000.00	\$45,000.00	\$18,380.00	\$18,380.00	\$24,325.92	\$24,325.92	\$22,560.00	\$22,560.00	
22	Fencing	L.F.	160	\$125.00	\$20,000.00	\$64.00	\$10,240.00	\$73.50	\$11,760.00	\$90.63	\$14,500.80	
23	Adjustment of Utility Cover to Grade	Each	12	\$800.00	\$9,600.00	\$1,120.00	\$13,440.00	\$800.00	\$9,600.00	\$585.00	\$7,020.00	
24	Irrigation System	L.S.	1	\$50,000.00	\$50,000.00	\$52,920.00	\$52,920.00	\$64,122.45	\$64,122.45	\$42,250.00	\$42,250.00	
25	Planting	L.S.	1	\$40,000.00	\$40,000.00	\$4,640.00	\$4,640.00	\$8,000.00	\$8,000.00	\$26,900.00	\$26,900.00	
26	Ballast Rock	Ton	400	\$50.00	\$20,000.00	\$82.00	\$32,800.00	\$62.00	\$24,800.00	\$56.50	\$22,600.00	
			TOTAL BID PRICE		\$1,500,000.00		\$1,382,115.00		\$1,399,941.32		\$1,412,828.58	

BID TABULATION													
ANDERSON PERRY & ASSOCIATES, INC.				PROJECT:				OWNER:					
P.O. Box 1107				City of Boardman, Oregon				City of Boardman, Oregon					
La Grande, Oregon 97850				S.E. Front St. and S.E. 1st St. Improvements - 2024				P.O. Box 229 / 200 City Center Circle					
Bid Opening: 2:00 p.m., December 14, 2023, at Boardman City Hall,				BIDDERS								Boardman, Oregon 97818	
200 City Center Circle, Boardman, Oregon 97818				Engineer's Estimate		Silvercreek Contracting LLC		Rotschy, Inc.		Tapani, Inc.			
Item	Description	Unit	Amount	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total		
1	Mobilization/Demobilization	L.S.	1	\$65,620.00	\$65,620.00	\$69,949.08	\$69,949.08	\$142,163.00	\$142,163.00	\$149,809.00	\$149,809.00		
2	Temporary Protection and Direction of Traffic/Project Safety	L.S.	1	\$50,000.00	\$50,000.00	\$52,422.34	\$52,422.34	\$45,000.00	\$45,000.00	\$8,500.00	\$8,500.00		
3	Demolition	L.S.	1	\$50,000.00	\$50,000.00	\$23,824.48	\$23,824.48	\$40,000.00	\$40,000.00	\$33,500.00	\$33,500.00		
4	Earthwork	L.S.	1	\$60,000.00	\$60,000.00	\$122,877.34	\$122,877.34	\$150,000.00	\$150,000.00	\$173,800.00	\$173,800.00		
5	Asphalt Pavement Sawcutting	L.F.	500	\$3.00	\$1,500.00	\$2.33	\$1,165.00	\$3.50	\$1,750.00	\$4.00	\$2,000.00		
6	Geotextile Fabric	S.Y.	13,100	\$2.00	\$26,200.00	\$1.28	\$16,768.00	\$1.50	\$19,650.00	\$1.00	\$13,100.00		
7	Base Rock	Ton	8,820	\$35.00	\$308,700.00	\$28.70	\$253,134.00	\$26.00	\$229,320.00	\$28.50	\$251,370.00		
8	Asphalt Concrete Pavement	Ton	3,040	\$130.00	\$395,200.00	\$137.44	\$417,817.60	\$128.00	\$389,120.00	\$120.00	\$364,800.00		
9	Driveway Approach	S.F.	1,900	\$15.00	\$28,500.00	\$13.89	\$26,391.00	\$13.00	\$24,700.00	\$14.50	\$27,550.00		
10	Concrete Curb and Gutter	L.F.	2,320	\$25.00	\$58,000.00	\$31.10	\$72,152.00	\$19.00	\$44,080.00	\$23.00	\$53,360.00		
11	Pedestrian Curb	L.F.	60	\$30.00	\$1,800.00	\$25.67	\$1,540.20	\$41.00	\$2,460.00	\$53.00	\$3,180.00		
12	Concrete Valley Gutter	L.F.	755	\$60.00	\$45,300.00	\$44.57	\$33,650.35	\$41.00	\$30,955.00	\$48.00	\$36,240.00		
13	Concrete Sidewalk	S.F.	9,785	\$8.00	\$78,280.00	\$8.27	\$80,921.95	\$6.50	\$63,602.50	\$8.60	\$84,151.00		
14	Americans with Disabilities Act Ramp	Each	6	\$3,000.00	\$18,000.00	\$2,030.21	\$12,181.26	\$3,500.00	\$21,000.00	\$4,000.00	\$24,000.00		
15	12-inch Polyvinyl Chloride Storm Drain Pipe	L.F.	310	\$80.00	\$24,800.00	\$97.72	\$30,293.20	\$68.00	\$21,080.00	\$111.00	\$34,410.00		
16	Catch Basin	Each	6	\$2,500.00	\$15,000.00	\$3,260.27	\$19,561.62	\$2,500.00	\$15,000.00	\$3,500.00	\$21,000.00		
17	Storm Drain Manhole	Each	1	\$5,000.00	\$5,000.00	\$18,126.36	\$18,126.36	\$5,300.00	\$5,300.00	\$7,050.00	\$7,050.00		
18	Drywell	Each	3	\$15,000.00	\$45,000.00	\$15,651.14	\$46,953.42	\$17,000.00	\$51,000.00	\$27,600.00	\$82,800.00		
19	Infiltration Pond	L.S.	1	\$35,000.00	\$35,000.00	\$7,786.12	\$7,786.12	\$17,000.00	\$17,000.00	\$35,300.00	\$35,300.00		
20	Fire Hydrant Relocation	L.S.	1	\$3,500.00	\$3,500.00	\$4,098.76	\$4,098.76	\$4,300.00	\$4,300.00	\$4,300.00	\$4,300.00		
21	Pavement Striping, Markings, and Signing	L.S.	1	\$45,000.00	\$45,000.00	\$27,229.33	\$27,229.33	\$35,000.00	\$35,000.00	\$25,000.00	\$25,000.00		
22	Fencing	L.F.	160	\$125.00	\$20,000.00	\$81.55	\$13,048.00	\$75.00	\$12,000.00	\$78.00	\$12,480.00		
23	Adjustment of Utility Cover to Grade	Each	12	\$800.00	\$9,600.00	\$899.30	\$10,791.60	\$600.00	\$7,200.00	\$525.00	\$6,300.00		
24	Irrigation System	L.S.	1	\$50,000.00	\$50,000.00	\$49,180.31	\$49,180.31	\$68,000.00	\$68,000.00	\$25,000.00	\$25,000.00		
25	Planting	L.S.	1	\$40,000.00	\$40,000.00	\$31,223.91	\$31,223.91	\$25,000.00	\$25,000.00	\$10,800.00	\$10,800.00		
26	Ballast Rock	Ton	400	\$50.00	\$20,000.00	\$42.19	\$16,876.00	\$55.00	\$22,000.00	\$83.00	\$33,200.00		
			TOTAL BID PRICE		\$1,500,000.00		\$1,459,963.23		\$1,486,680.50		\$1,523,000.00		

ANDERSON PERRY & ASSOCIATES, INC.									
P.O. Box 1107									
La Grande, Oregon 97850									
Bid Opening: 2:00 p.m., December 14, 2023, at Boardman City Hall,									
200 City Center Circle, Boardman, Oregon 97818									
BID TABULATION									
PROJECT:					OWNER:				
City of Boardman, Oregon					City of Boardman, Oregon				
S.E. Front St. and S.E. 1st St. Improvements - 2024					P.O. Box 229 / 200 City Center Circle				
BIDDERS					Boardman, Oregon 97818				
Item	Description	Unit	Amount	Engineer's Estimate		Swaggart Brothers Inc.		Granite Construction Company	
				Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Mobilization/Demobilization	L.S.	1	\$65,620.00	\$65,620.00	\$160,000.00	\$160,000.00	\$75,000.00	\$75,000.00
2	Temporary Protection and Direction of Traffic/Project Safety	L.S.	1	\$50,000.00	\$50,000.00	\$90,000.00	\$90,000.00	\$22,000.00	\$22,000.00
3	Demolition	L.S.	1	\$50,000.00	\$50,000.00	\$36,000.00	\$36,000.00	\$84,000.00	\$84,000.00
4	Earthwork	L.S.	1	\$60,000.00	\$60,000.00	\$125,000.00	\$125,000.00	\$177,000.00	\$177,000.00
5	Asphalt Pavement Sawcutting	L.F.	500	\$3.00	\$1,500.00	\$10.00	\$5,000.00	\$1.75	\$875.00
6	Geotextile Fabric	S.Y.	13,100	\$2.00	\$26,200.00	\$1.35	\$17,685.00	\$3.00	\$39,300.00
7	Base Rock	Ton	8,820	\$35.00	\$308,700.00	\$32.00	\$282,240.00	\$43.00	\$379,260.00
8	Asphalt Concrete Pavement	Ton	3,040	\$130.00	\$395,200.00	\$108.00	\$328,320.00	\$120.00	\$364,800.00
9	Driveway Approach	S.F.	1,900	\$15.00	\$28,500.00	\$10.00	\$19,000.00	\$13.00	\$24,700.00
10	Concrete Curb and Gutter	L.F.	2,320	\$25.00	\$58,000.00	\$19.00	\$44,080.00	\$32.00	\$74,240.00
11	Pedestrian Curb	L.F.	60	\$30.00	\$1,800.00	\$45.00	\$2,700.00	\$24.00	\$1,440.00
12	Concrete Valley Gutter	L.F.	755	\$60.00	\$45,300.00	\$60.00	\$45,300.00	\$55.00	\$41,525.00
13	Concrete Sidewalk	S.F.	9,785	\$8.00	\$78,280.00	\$7.00	\$68,495.00	\$9.90	\$96,871.50
14	Americans with Disabilities Act Ramp	Each	6	\$3,000.00	\$18,000.00	\$3,500.00	\$21,000.00	\$2,350.00	\$14,100.00
15	12-inch Polyvinyl Chloride Storm Drain Pipe	L.F.	310	\$80.00	\$24,800.00	\$175.00	\$54,250.00	\$94.00	\$29,140.00
16	Catch Basin	Each	6	\$2,500.00	\$15,000.00	\$5,750.00	\$34,500.00	\$2,800.00	\$16,800.00
17	Storm Drain Manhole	Each	1	\$5,000.00	\$5,000.00	\$9,550.00	\$9,550.00	\$6,000.00	\$6,000.00
18	Drywell	Each	3	\$15,000.00	\$45,000.00	\$27,500.00	\$82,500.00	\$16,000.00	\$48,000.00
19	Infiltration Pond	L.S.	1	\$35,000.00	\$35,000.00	\$7,500.00	\$7,500.00	\$10,000.00	\$10,000.00
20	Fire Hydrant Relocation	L.S.	1	\$3,500.00	\$3,500.00	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00
21	Pavement Striping, Markings, and Signing	L.S.	1	\$45,000.00	\$45,000.00	\$42,000.00	\$42,000.00	\$23,000.00	\$23,000.00
22	Fencing	L.F.	160	\$125.00	\$20,000.00	\$150.00	\$24,000.00	\$71.00	\$11,360.00
23	Adjustment of Utility Cover to Grade	Each	12	\$800.00	\$9,600.00	\$750.00	\$9,000.00	\$490.00	\$5,880.00
24	Irrigation System	L.S.	1	\$50,000.00	\$50,000.00	\$60,000.00	\$60,000.00	\$60,400.00	\$60,400.00
25	Planting	L.S.	1	\$40,000.00	\$40,000.00	\$60,000.00	\$60,000.00	\$20,500.00	\$20,500.00
26	Ballast Rock	Ton	400	\$50.00	\$20,000.00	\$30.00	\$12,000.00	\$60.00	\$24,000.00
TOTAL BID PRICE					\$1,500,000.00		\$1,650,120.00		\$1,658,191.50
Indicates math or rounding error.									
									\$2,259,180.00



## City of Boardman

200 City Center Circle  
P.O. Box 229  
Boardman, OR 97818  
Phone: (541) 481-9252  
Fax: (541) 481-3244  
TTY Relay 711  
[www.cityofboardman.com](http://www.cityofboardman.com)

Press Release  
For Immediate Release

by: Amanda Mickles – 541-481-9252  
Date: December 19, 2023

### **BOARDMAN ANNOUNCES CITY MOTTO WINNERS**

At their December meeting, the City Council announced the four finalists in the City Motto Contest. In an effort to promote community interest in activities happening in the city, the Council chose to ask for involvement in creating a new motto that will aid in a new logo. A total of 70 submissions and 47 participants were collected. Each winner was awarded prizes from various businesses around town.

- Community winner – Noah Reaves – “Where potential comes to grow”
- Riverside Jr/Sr High winner – Seth Hammond – “Beauty around the bend”
- Windy River winner – Mikayla Mickles – “Where river meets opportunity”
- Sam Boardman Winner – Hadley Coleman – “Small town, big dreams”

The City Manager will be working with the finalists to compile additional ideas for the public to vote on in the coming months.

In other city news, Councilors heard from ODOT regarding an upcoming project to update sidewalk ramps to meet ADA requirements at both freeway intersections.

#C of B##



# Please Sign In

City Council

1-2-24

[illegible]