



AGENDA

CITY COMMISSION OF THE CITY OF WARRENTON
REGULAR MEETING
April 25, 2023 – 6:00 P.M.
Warrenton City Commission Chambers – 225 South Main Avenue
Warrenton, OR 97146

Public Meetings will also be audio and video live streamed. Go to <https://www.ci.warrenton.or.us/administration/page/live-stream-public-meetings> for connection instructions.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **CONSENT CALENDAR**

- A. City Commission Meeting Minutes – 4.11.23
- B. City Commission Work Session Minutes – 4.11.23
- C. Public Works Quarterly Update – Qtr. 1, 2023
- D. Marinas Quarterly Update – Qtr. 1, 2023
- E. Amendment to Sublease Agreement – Fowlers
- F. Employee Handbook Addendum – Exempt Staff
- G. City Manager Contract Amendment
- H. Police Department Monthly Report – March 2023
- I. Port PIDG Grant Letter of Support
- J. Building Department Quarterly Report – March 2023

Items on the Consent Calendar have previously been discussed and/or are considered routine. Approval of the Consent Calendar requires a motion, a second, and no discussion, unless requested by a member of the City Commission.

4. **COMMISSIONER REPORTS**

5. **PUBLIC COMMENT**

At this time, anyone wishing to address the City Commission concerning items of interest may do so. The person addressing the Commission must complete a Public Comment Card and submit it to the City Recorder prior to the meeting. All remarks will be addressed to the whole City Commission and limited to 3 minutes per person. Public Comments may also be submitted by email to the City Recorder, at cityrecorder@ci.warrenton.or.us, no later than 4:00 p.m. the day of the meeting. The Commission reserves the right to delay any action, if required, until such time as they are fully informed on a matter.

6. PUBLIC HEARINGS

A. Sale of City Properties

7. BUSINESS ITEMS

A. Pacific Power Presentation – Alissa Dunlap

B. Consideration of Street and Traffic Code Amendments; Ordinance No. 1263

C. Consideration of Lease Agreement – Warrenton Kia

D. Consideration of Kia First Right of Refusal

E. Consideration of City Hall Closure

8. DISCUSSION ITEMS - None

9. GOOD OF THE ORDER

10. EXECUTIVE SESSION

11. ADJOURNMENT

Warrenton City Hall is accessible to the disabled. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting Dawne Shaw, City Recorder, at 503-861-0823 at least 48 hours in advance of the meeting so appropriate assistance can be provided.

MINUTES
 Warrenton City Commission
 April 11, 2023
 6:00 p.m.
 Warrenton City Hall - Commission Chambers
 225 S. Main
 Warrenton, OR 97146

Mayor Balensifer called the meeting to order at 6:04 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Mayor Henry Balensifer, Mark Baldwin, Tom Dyer, Gerald Poe, and Paul Mitchell

Staff Present: City Manager Esther Moberg, Police Chief Mathew Workman, Finance Director April Clark, Acting Public Works Operations Manager Jim McCarthy, Public Works Utility Worker Mike Ulness, Harbormaster Jane Sweet, Fire Chief Brian Alsbury, City Attorney Ashley Driscoll, and City Recorder Dawne Shaw

CONSENT CALENDAR

- A. City Commission Meeting Minutes – 3.28.23
- B. City Recorder Activity Report – January - March 2023
- C. Fire Department Activity Report – 2023, Quarter 1

Commissioner Mitchell made the motion to approve the consent calendar as presented. Motion was seconded and passed unanimously.

Baldwin – aye; Dyer – aye; Poe – aye; Mitchell – aye; Balensifer - aye

COMMISSIONER REPORTS

Commissioner Mitchell noted he attended the CEDR awards dinner, stating there was a good turnout. He gave brief highlights and noted the small business recognitions.

City Manager Esther Moberg gave an update on the recruitment for a Public Works Director, noting we are moving forward with interviews with four candidates. She also noted Consor was selected in the bid process and is currently working on the scope of work for the Hammond water line.

PUBLIC COMMENT – None

PUBLIC HEARINGS – None

BUSINESS ITEMS

Public Works Operations Manager Jim McCarthy discussed an extension to the Water Treatment Plant Roof project, noting weather conditions are causing ongoing delays.

Commissioner Baldwin made the motion to extend the original Substantial Completion Date of March 22, 2023 by 40 days, requiring Roof Toppers, Inc., to uphold the new Substantial Completion Date of May 1, 2023 for the Warrenton WTP Roof Modifications Project. Motion was seconded and passed unanimously.

Baldwin – aye; Dyer – aye; Poe – aye; Mitchell – aye; Balensifer - aye

Commissioner Baldwin noted for the record that the dollar amount for the project has remained the same.

City Recorder Dawne Shaw presented Street Vacation Petition from Mr. Don Hall of L&D Racetech. The petition is for a portion of SE 11th Street. She noted Mr. Hall is working with the Planning Department and plans to develop his property to relocate his business. Staff have reviewed the petition and have not found any issues or concerns. Resolution No. 2641 is presented to set a Public Hearing date of May 9th, 2023. She noted Mr. Hall in the audience.

Commissioner Dyer made the motion to adopt Resolution No. 2641, setting a Public Hearing date of May 9, 2023, for vacation petitioner Don Hall, for a portion of SE 11th Street. Motion was seconded and passed unanimously.

Baldwin – aye; Dyer – aye; Poe – aye; Mitchell – aye; Balensifer - aye

Mayor Balensifer noted his nomination of Mr. Andrew Walker for Position No. 7 on the Library Advisory Board.

Commissioner Poe made the motion to adopt Resolution No. 2644; Authorizing Appointments to Fill Positions on the Warrenton Community Library Board and Setting Terms of Office. Motion was seconded and passed unanimously.

Baldwin – aye; Dyer – aye; Poe – aye; Mitchell – aye; Balensifer - aye

DISCUSSION ITEMS – None

GOOD OF THE ORDER

Commissioner Mitchell noted he will not be in attendance at the next meeting, as he will be cruising the Panama Canal.

Mayor Balensifer acknowledged Police Chief Mathew Workman for receiving the Paul Nagy award at the Oregon Association Chiefs of Police Annual Conference last week. Chief Workman gave a few comments about the conference and the award.

Mayor Balensifer noted he testified on behalf of the Oregon Military Department receiving an increase in their facilities funding, noting the desire for Camp Rilea to maintain some facilities and a robust amount of capital equipment for use in the event of an emergency. He noted Clatsop County was accepted into the emergency declaration, however the only money they will receive is for technical assistance, instead of actual meaningful investments. He stated they will continue to push to get per city capita funding; for housing services.

At 6:19 p.m. Mayor Balensifer announced the Commission will now meet in executive session under the authority of ORS 192.660(2)(d); *to conduct deliberations with persons designated by the governing body to carry on labor negotiations.*

At 6:26 p.m., Mayor Balensifer announced the Commission will now meet in executive session under authority of ORS 192.660(2)(e); *to conduct deliberations with persons designated by the governing body to negotiate real property transactions.*

MINUTES

Warrenton City Commission

Regular Meeting – 4.11.23

Page: 2

At 6:39 p.m. Mayor Balensifer reconvened the regular meeting and noting no further business, adjourned the meeting.

APPROVED:

ATTEST:

Henry A. Balensifer III, Mayor

Dawne Shaw, CMC, City Recorder

MINUTES
 Warrenton City Commission
 Work Session – April 11, 2023
 5:15 p.m.
 Warrenton City Hall - Commission Chambers
 225 S. Main
 Warrenton, OR 97146

Mayor Balensifer called the work session to order at 5:15 p.m.

City Commissioners Present: Mayor Henry Balensifer, Tom Dyer, Mark Baldwin, Paul Mitchell, and Gerald Poe

Staff Present: City Manager Esther Moberg, Finance Director April Clark, Police Chief Mathew Workman, Harbormaster Jane Sweet, Fire Chief Brian Alsbury, Acting Public Works Operation Manager Jim McCarthy, and City Recorder Dawne Shaw

City Manager Esther Moberg noted she was proud of staff, especially the Finance Department for rushing to get the Capital Improvement Program (CIP) out after the very delayed audit. She noted it is a very rough draft.

Ms. Moberg began the review of the CIP, noting the summary and status of projects. She highlighted the Public Works projects that are being carried forward to the next fiscal year, mainly due to staff turnover. She continued the review of the CIP for the General Fund departments: Police, Fire, Facilities Maintenance; Parks and the Quincy Fund.

Mayor Balensifer questions why the Hammond public fishing pier was not in the current CIP document. Ms. Moberg stated there was confusion about where to put it in the budget, as it was originally in Marinas. After brief discussion, Mayor Balensifer suggested putting it in Public Works/Parks as it will be in Seafarer's Park. He explained that to chase after funding or partnerships to help fund, we needed to have it in a plan to show that we are going to do it. Ms. Moberg stated it will be included in the final document. There was consensus from the Commission to keep it in the CIP, under Public Works for FY 2025/2026; the feasibility study will be under Public Works.

Ms. Moberg continued the review of the Building and Planning departments. Brief discussion continued on building department vehicles vs police and alternating each year. Finance Director April Clark explained how the use of ARPA funds is freeing up general funds for vehicle purchases and to put money aside for future use.

Review continued with water; no discussion. CIP review moved to sewer; Mayor Balensifer asked for clarification on the N Main/NW 7th project completion; Ms. Clark stated the sewer portion is completed, the water line and streets portion remains. Discussion continued on the sidewalks and project completion. Review continued with sewer. Mayor Balensifer asked about trailer mounted generators vs stationary and replacing pumps with commonality. Ms. Moberg

stated she will check into it. Commissioner Baldwin discussed the possibility of Hampton Mill using the north lagoon water to fill their fire pond; Mayor Balensifer asked the record to reflect the possible private partnership with Hampton Mill for dewatering the North Lagoon.

Review of the CIP continued. Mayor Balensifer talked about the previous discussions on the possibility of moving Public Works vs a rebuild in the same location. Ms. Moberg stated they would like to keep this in the CIP but are investigating a few options, including looking into the sustainability of the sanitation program and also looking into potential options for alternate locations for the Public Works department.

Review continued with streets: Commissioner Mitchell discussed the cost of the wayfinding signs; discussion on the trail system followed. Review continued. Mayor Balensifer discussed the sidewalk on E. Harbor vs SE Neptune and noted his preference would be for E Harbor. After further discussion, Mayor Balensifer stated a sidewalk on E Harbor is more important project and we should at least look at the cost; the commission agreed.

Storm Sewer: Mayor Balensifer discussed the culvert and tide gate at Enterprise that silts into the Hammond marina docks; he made a strong point of noting that whatever design that we do for that, that there is some consideration of how that culvert silts in the docks next to it; there was consensus that it needs to be looked at in the design process. Discussion followed on tide gate replacements; Mayor Balensifer stressed that we need to do all that we can to avoid fish friendly tide gates.

At 5:59 p.m. Mayor Balensifer recessed the work session, noting it will continue after the regular meeting and the executive session.

At 6:39 p.m. Mayor Balensifer reconvened the work session and review of the CIP continued. Ms. Moberg reviewed the distribution of the ARPA funds. Mayor Balensifer briefly mentioned the work that has been done on SW Pine and requested that the city take a look at a section between Gardenia and 9th off NW Warrenton Drive. He noted that road is in abysmal shape. (particularly the 9th street portion, from the pump station to the Tagg ranch) Brief discussion continued on SW Pine.

Public Works Equipment: Commissioner Baldwin questioned the need for the hoist truck, noting the backhoe can take care of the majority of needs. Ms. Moberg stated she can check into the usage and will clarify the description/usage in the CIP. Review continued.

Marinas: Brief discussion on the electrical for M & N docks in Warrenton. In review of the Warrenton Basin Docks redesign, Mayor Balensifer noted the CIP references the 2010 Marinas Master Plan, which was out of date years ago. Ms. Moberg stated this is a place holder, noting the need to start moving forward with space for larger vessels. There needs to be an updated analysis. Mayor Balensifer noted there needs to be brow logs on all commercial docks; and suggested clearer verbiage in the CIP. Review continued on the Hammond basin. Discussion followed on potholes, the marina road conditions and the need for a pavement management plan.

Marinas CIP review continued. Mayor Balensifer stated he was encouraged to see marina

projects reflected in the CIP. He noted Hammond dock replacement and bank stabilization is a higher priority than redoing roads. Discussion continued.

Mayor Balensifer suggested scheduling a work session or a discussion item to continue the discussion on maintenance/pothole issues, and a pothole reporting line. Ms. Moberg noted staff is working on getting a pothole reporting system on the website.

Hamond Bank Stabilization: brief discussion on filling in banks and DEQ requirements. Marina CIP review continued. Discussion followed on the marina skiff vs a Fire Dept. skiff, and a possible shared use.

It was noted that the final CIP will come forward for adoption at last meeting in June.

There being no further business, Mayor Balensifer adjourned the work session at 7:15 p.m.

APPROVED:

Henry A. Balensifer III, Mayor

ATTEST:

Dawne Shaw, CMC, City Recorder



AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Greg Shafer, Interim Public Works Director
DATE: April 25, 2023
SUBJ: Public Works Quarterly Update

SUMMARY

Public Works experienced a number of changes the first quarter of 2023, especially in management; however, we are rebuilding our Team and continuing forward in both projects and maintenance as follows:

Staffing/Training Updates:

- Jim McCarthy: Operations Manager
- Twyla Vittetoe: Engineering Technician
- Jessica McLean: PW Analyst
- WTP: Supervisor and Operator training/certifications
- WWTP: Supervisor and Operator training/certifications
- Job Postings: Executive Secretary, Office Assistant, Utility Worker
- Greg Shafer: Interim Public Works Director

Project Updates:

- Awarded \$2,000,000 Oregon Safe Routes to School grant
- Applied for \$1,100,000 CDS grant for the Iredale Tidegate and Culvert Project
- Applied for \$2,900,000 CDS grant for the WWTP Phase I Improvements
- Completed RFQ process and selected Consor for engineering services for the Hammond Transmission Waterline and Raw Waterline (RP-2) Replacement Projects

- 50% Engineering plans for the E. Harbor to Downtown Waterline Upsize Project
- Completed/submitted Industrial Users Survey Report.
- Opened SE Bugle Avenue

Maintenance Updates:

General maintenance, repair, servicing, engineering support on:

- Pump stations, generators, water meters, storm and sanitary sewer lines, culverts, ditches, tidgates, Parks, potholes, Food Pod paving, WWTP blowers and bird netting, WTP roofing, WTP tank repair/replacement, sanitation routes, mowing and brushing.



WARRENTON & HAMMOND MARINAS QUARTERLY REPORT

JANUARY - MARCH, 2023 // PREPARED BY JANE SWEET HARBORMASTER



Warrenton & Hammond Marinas

Quarterly Report: January - March 2023

Quarter in Brief

The City of Warrenton Marina Department continues to maintain and make improvements to the Warrenton & Hammond Marina in preparation of the quickly approaching August fishing season. Routine maintenance and repairs are a bit behind due to the wind and ice events at the beginning of the year which created a higher priority of emergency repairs. Staff is currently back on maintenance and repairs this quarter working to improve the Warrenton Marina Inner Basin docks, Staff has been adding flotation, replacing stringers and other replacement of rotted or damaged spots on the docks.

The end of the 3rd quarter has staff shifting to Hammond for repairs from the damage that was incurred during the first of the year winter storms but also routine repair and maintenance. We suffered many water leaks in the supply line to the marina and the loss of a power pole on the west side of the basin. Staff has been busy preparing for placement of used gangways on A & B Dock. The existing gangways constructed of wood and steel were installed in the early 1970's and had been earmarked for replacement in 1996. While the footprint of the replacement gangways will remain the same they are not as heavy as the existing gangways. Installment of additional flotation to the landing area before the gangway is placed will aid staff in a smooth and quick install.

The Marina Department continues to work with the Marina Advisory Board to make plans to better the Marinas and make long term goals for the Marinas. Chairperson Pam Ackley is working to implement an "Adopt a Marina" program which would allow the Marinas to accept donations for improvements. Sponsorship titles include Caption, First Mate, Deckhand and other nautical related sponsorship levels.

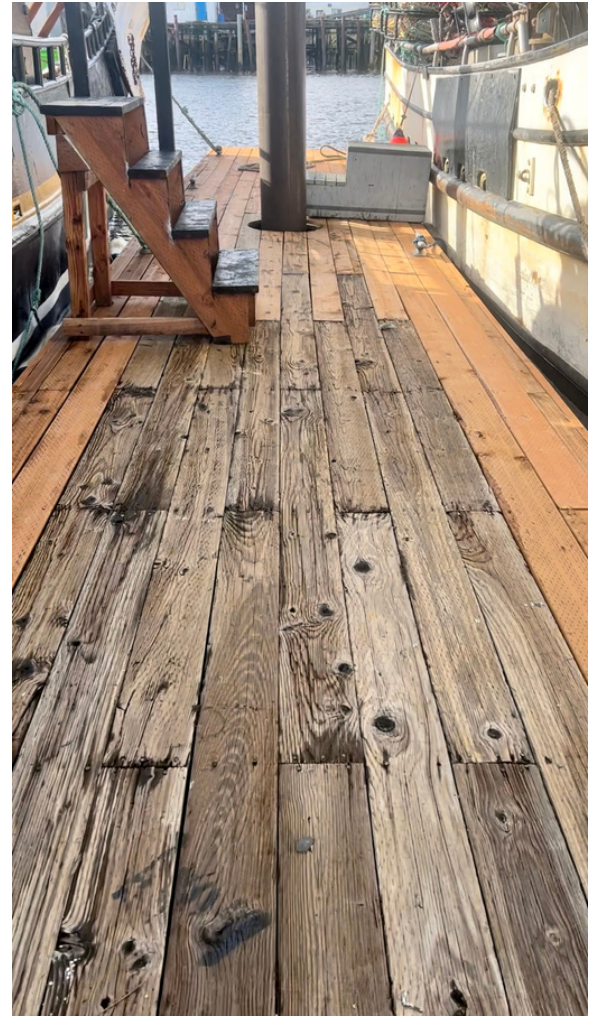
Challenges/Obstacles

Staff are working to the best of their ability to get projects completed on the docks but our biggest challenge currently is staffing. We are currently advertising to hire a Marina Maintenance Worker but until that position is filled our Marina Foreman and 2 Marina Maintainers are split over a 7 day work week making it difficult to complete projects that require more than one person. Employee scheduled vacation time and illness combined with the age of our facilities and being hit by several storms this winter has been a challenge.



Warrenton Marina Storm Damage

Quarterly Report: January - March 2023



Warrenton Winter Storm Damages & Repairs

December storms hit the marinas hard this year and staff has been busy repairing the damages.

Warrenton Ongoing Repairs & Improvements

In progress; The Warrenton Marina dock repairs are scheduled to be completed in May-June 2023 to the best of staffs ability.



Warrenton Marina Storm Damage

Quarterly Report: January - March 2023

Warrenton Marina Storm Damage Winter 2022 -2023	Date of Occurrence	Status	Comments (Impacts)
Power Pole M & N Dock Entrance: Significant leaning to the west (towards basin) Pole will need to be replaced or reconfiguration of power supply to M & N Dock necessary.	12/23/2022	2023 - 2024 CIP	Estimated Repair & Upgrade to Power \$30,000.
Storm damage finger repair A - 1/2 Broke off with vessel attached and was located on the west side of the Skipanon River. Vessel was located and finger and vessel returned to the Warrenton Marina. No damage was done to the vessel - finger will need to be repaired and re attached	12/27/2022	Completed	Estimated materials, supplies and employee man hours. Damage done to main walk as well as finger.
A - 38/39 Storm Damage: 30' Finger broke loose and electric meters need to be resecured.	12/27/2022	Completed	Parts, materials employee hours and electrician.
G - 34/35: 36' Finger broke off with 2 boats attached. Secured vessels and reattached finger.	12/27/2022	Completed	Estimated parts, supplies and man hours.
F - 3: 60' finger with 70' Commercial Vessel tied up. Cleats Pulled out and caused cracked decking. Both need replace.	12/27/2022	Completed	Estimated parts, supplies and man hours.
F - 28: 60' Finger with 85' Vessel. Cleats gave way and cracked decking. Both in need of replacement.	12/27/2022	Completed	Estimated parts, supplies and man hours.
E - 9: 58' Finger with 75' Vessel. Bull Rail pulled out during storm. Needs replacing.	12/27/2022	Completed	Beginning work - calculations based on time spent on E-17/18.
E- 17/18: 58' Finger with 66' and 58' Vessels attached. Finger damaged during storm. Major repairs to 60' Finger needed.	12/27/2022	Completed	Approx 80+ hours employee time and materials and equipment costs.
Employee and contracted hours for storm prep and cleanup.	12/22/2022	Ongoing	Tree cleanup around the west side of Warrenton Camping area still needed.



Warrenton Marina CIP

Quarterly Report: January - March 2023



Commercial Work Pier

The Commercial Work Pier in the Warrenton Marina is currently under much needed construction. The goal of this project is to maintain access to the pier and access to the new commercial F dock.

Project Status

Under Construction; Construction has started on the commercial work pier and is scheduled to be completed by the end first week in June 2023



Warrenton Marina Projects

Quarterly Report: January - March 2023



Hoist and Live Crab Market

This time of year the hoist keeps staff very busy. Staff has offloaded 122,397 pounds of live seafood so far in 2023.

Commercial Revenues YTD for Budget Year 2022-2023

- Hoist Revenues \$18,650.00
- Pier, Work Slip and Charges Revenues \$22,505.67
- Annual Commercial Moorage \$180,077.00
- Transient Commercial Moorage \$22,879.00
- Commercial Facility Use \$17,075.00
- Commercial Dry Storage \$12,765.00
- Total Commercial Revenues \$273,951.67 as of March 31, 2023



Hammond Marina Storm Damage

Quarterly Report: January - March 2023

Hammond Marina Storm Damage Winter 2022 -2023	Date of Occurrence	Status	Comments (Impacts)
B - Dock: Down Power pole due to ice and wind. Power pole was maintained by Pacific Power . Will now need to be reconfigured to supply power by a meter box that will be placed by west side paystation.	12/23/2022	Will Be Completed	Estimated Repair & Upgrade to Power \$15,000.
Marina Grounds and surrounding beaches: Major debris clean up of branches trees and hazards to navigation.	12/27/2022	Completed/ Ongoing	Estimated materials, supplies and employee man hours. Damage done to main walk as well as finger.
Guide Dock: End of Guide Dock broke loose. Currently tied up along bank. Needs to be moved back into place and reattached.	12/27/2022	Removed	Past Repair
X - Dock: Connection between D & E Dock broke loose and needs to be re attached. Cannot access E - Dock until completed.	12/27/2022	Completed	Estimated parts, supplies and man hours.
E - Dock: Approx 6+ Fingers tied up and in need of reattachment. Difficult to assess until safer to access.	12/27/2022	Completed	Estimated parts, supplies and man hours.
Erosion to Banks: West and South sides of basin and further erosion North of Seafarers Park.	12/27/2022	2023-2024 CIP	Control Erosion
Employees hours storm prep and cleanup	12/27/2022	Completed	Approx 80+ hours employee time and materials and equipment costs.



Hammond Marina Storm Damage

Quarterly Report: January - March 2023



Dock Repairs

Staff is working on Gangways and will be moving to dock repairs in the Hammond Marina as soon as possible.

Project Status

Repairs scheduled for May 2023



Hammond Marina CIP

Quarterly Report: January - March 2023



Bank Stabilization

Following the current permit for Bank Stabilization in the Hammond Marina, staff are currently budgeting for this project to be completed during the in water work window in 2023-2024.

Project Status

Waiting for engineering proposal



Hammond Marina Project

Quarterly Report: January - March 2023



Gangways

The Hammond Marina purchased three gangways - two 45-foot gangways and one 50-foot gangway to replace the existing gangways on A & B Dock. Staff is assessing where the third gangway will be best used.

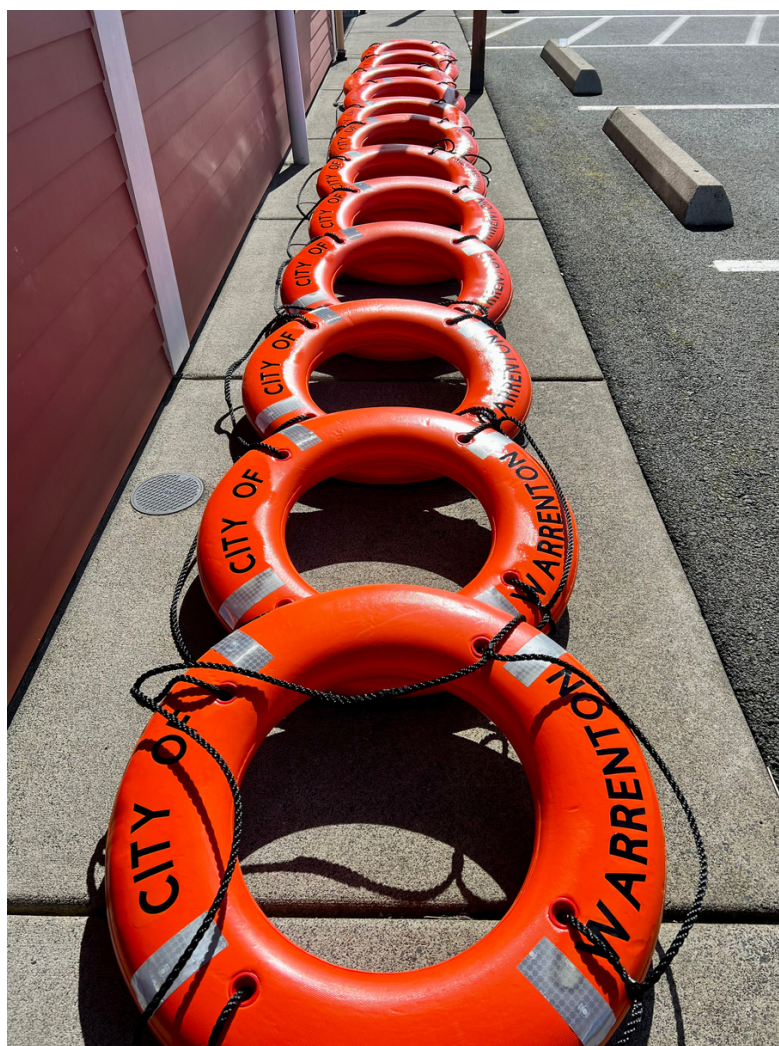
Project Status

Staff is currently making plans to get the new gangways installed in April 2023.



Warrenton & Hammond Special Project

Quarterly Report: January - March 2023



Safety Improvements

Staff are working to add life rings and replace fire extinguishers on the docks

Project Status

Ongoing; Staff is planning to have many life rings and fire extinguishers placed before July 2023 but this project will always be ongoing as staff continue to make safety improvements to the Marinas.



Warrenton & Hammond Buoy 10 Prep

Quarterly Report: January - March 2023



Warrenton & Hammond Marina Buoy 10 Preparation

Staff are already busy getting the Marinas ready for Buoy 10 2023. This includes refreshing all the Marina signage, dock markers placing cleats and planning out the camping areas.

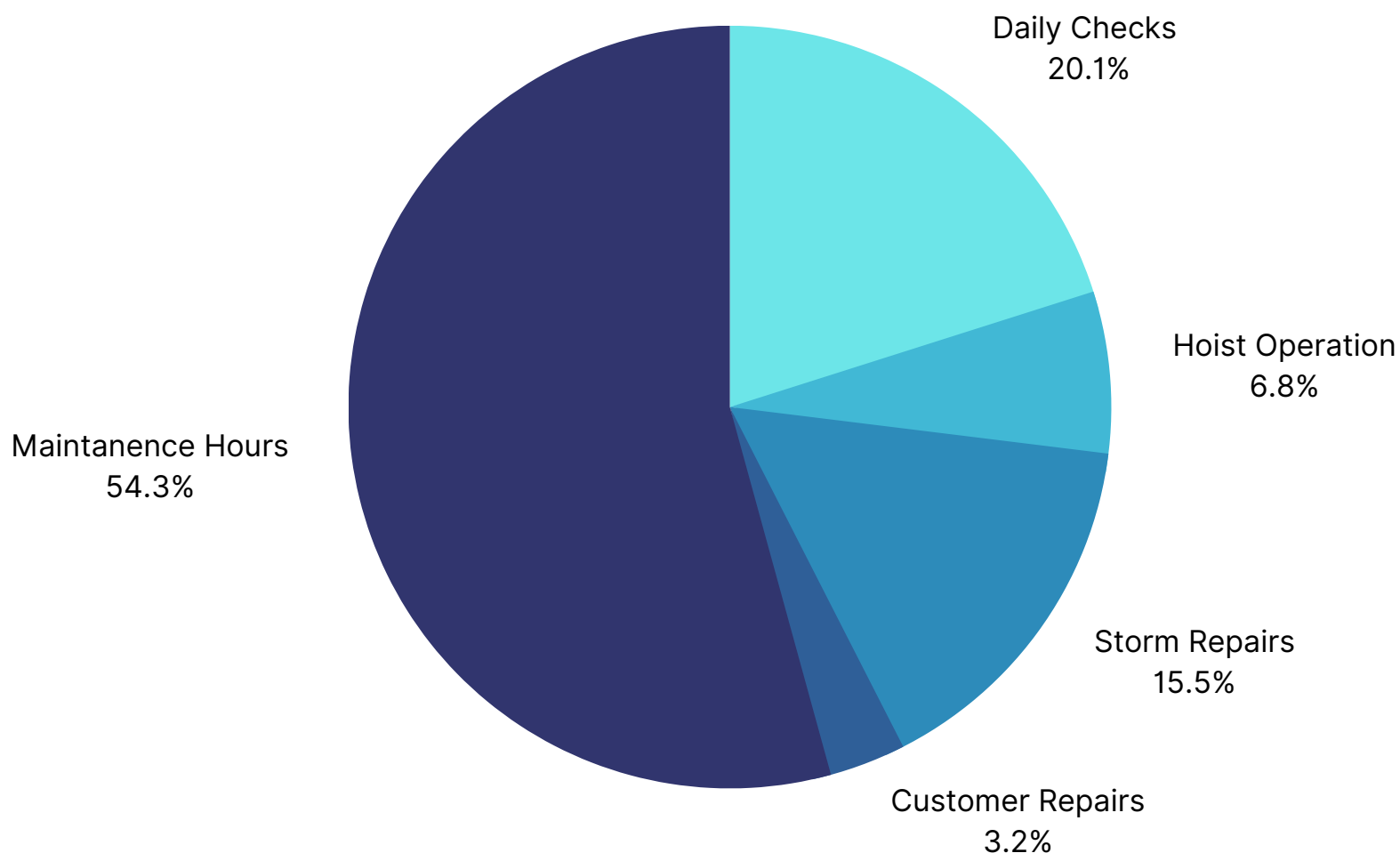
Project Status

Ongoing



Employee Quarterly Time Tracking

Quarterly Report: January - March 2023



Warrenton and Hammond Marinas Employee Time Tracking

Time study is based on averages from staff's daily time sheets.

- Staff Spent an average of 54.3% of their time maintaining the marina docks this quarter
- An average of 20.1% of staff time was spent doing daily checks. This includes walking all the marina docks and checking for issues with vessels or safety concerns, cleaning the bathrooms and fishing cleaning, checking and cleaning the oil dump and checking the launch areas and pay stations
- On average 15.5% of staff time was spent on Storm Repairs
- On average 6.8% of staff time was spent on Operating the Hoist
- 3.2% of staff time was spent on Customer Repairs, this is damage to the docks that we bill back to the customer.

AMENDMENT ONE TO SUBLEASE AGREEMENT

THIS AMENDMENT ONE TO SUBLEASE AGREEMENT (the "Amendment"), made and entered into this _____ day of _____, 2023 (the "Effective Date") between the City of Warrenton, a municipal corporation of the state of Oregon, hereinafter referred to as "City" and James Fowler, hereinafter referred to as "Sublessee." The parties are each referred to herein as a "Party" and collectively as the "Parties." Words used but not defined herein have the meanings set forth in the Sublease.

WHEREAS, the City entered into a Sublease Agreement as of February 7, 2018 with Paul Leitch, d/b/a Sturgeon Paul's, for the purpose of allowing a concession to operate at the Hammond Boat Basin and subleasing certain real property belonging to the United States Army Corps of Engineers (the "Sublease"); and

WHEREAS, the City acquired the initially leased 59.12 acres from the United States Army Corp of Engineers and accordingly became the lessor for purposes of the Sublease; and

WHEREAS, Paul Leitch, d/b/a Sturgeon Paul's, assigned all rights, title, and interest in and to the Sublease to Sublessee via the Assignment to Sublease executed as of September 28, 2021 (the "Assignment of Sublease"); and

WHEREAS, the City has provided Sublessee notice of its intent to terminate the Sublease in accordance with the terms of the Sublease; and

WHEREAS, the Parties now desire to amend the Sublease in order to extend the First Extended Term.

NOW, THEREFORE, the Parties agree as follows:

1. Amendment.

- a. Section 1 of the Sublease is hereby deleted in its entirety and replaced with the following:

“(1) TERM

The initial term of this Sublease shall begin on October 1, 2017 and shall continue through December 31, 2018 (the "Initial Term"), unless earlier terminated as otherwise provided in this Sublease. Unless either party provides written notice to the other party of its intent not to renew this Sublease at least six (6) months prior to the expiration of the Initial Term, this Sublease shall automatically be extended, on the same terms and conditions as provided herein, through December 31, 2023 (the "First Extended Term"), unless earlier terminated as otherwise provided in this Sublease.”

- b. Section 2, of the Sublease is deleted in its entirety and replaced with the following:

“(2) RENT

Rent shall be set and automatically adjusted according to the applicable portion of the following rate schedule:

Initial Term (October 1, 2017 through September 30, 2018) - \$1,075.11 per month

First Extended Term (October 1, 2018 through December 31, 2023) - \$1,129.00 per month”

2. Interpretation; Remaining Terms. From and after the Effective Date, “Sublease” means the original Sublease Agreement as amended by this Amendment. Except as expressly modified by the terms and conditions of this Amendment, the Parties ratify and confirm each of the terms and conditions of the Sublease which, the Parties acknowledge and agree, remains in full force and effect.

[Remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the Effective Date.

CITY OF WARRENTON
An Oregon Municipal Corporation

By: _____

James Fowler

By: _____



Addendum to Employee Handbook

ADDITIONS TO THE FOLLOWING SECTIONS OF THE EMPLOYEE HANDBOOK WILL BE PUT IN PLACE FOR EXEMPT STAFF:

CHAPTER V. EMPLOYEE BENEFITS

SECTION A. HOLIDAY BENEFITS

FOR EXEMPT STAFF

Exempt staff will receive a total of 4 “personal holidays” per fiscal year. These personal holidays must be used within the fiscal year. They cannot be cashed out or carried over to the next fiscal year.

New Year’s Day	Veteran’s Day
Martin Luther King Day	Thanksgiving Day
President’s Day	Day after Thanksgiving Day
Memorial Day	Christmas Eve
Independence Day	Christmas Day
Labor Day	Four “personal holidays”

SECTION B. PAID VACATION BENEFITS

FOR EXEMPT STAFF

Paid vacation benefits are earned after the successful completion of the trial service period, and then accrued proportionately each pay period. The amount of benefits an eligible employee earns, depends on the employee’s position and length of service with the City as outlined in the chart below.

The purpose is not to accumulate Vacation Time, but to use the time to avoid burnout. Employees will be limited to a maximum accumulation of four hundred and eighty (480) paid vacation benefit hours.

NUMBER OF CONTINUOUS, COMPLETED MONTHS OF EMPLOYMENT	AMOUNT OF PAID VACATION BENEFITS EARNED EACH MONTH
0-60 MONTHS	10 hours per month (120 hours per year)
61-119 MONTHS	12 hours per month (144 hours per year)
120-179 MONTHS	14 hours per month (168 hours per year)
180-239 MONTHS	15 hours per month (180 hours per year)
240+ MONTHS	17 hours per month (204 hours per year)

Effective Date July 1, 2023

**CITY MANAGER
EMPLOYMENT AGREEMENT
ADDENDUM
April 25, 2023**

6.2 Vacation

Per the updated Exempt Staff Addendum to Employee Handbook (effective date July 1, 2023):

City Manager's Holiday and Vacation Benefits shall match those of Exempt Staff, effective July 1, 2023. City Manager shall receive a total of 4 "personal holidays" per fiscal year. These personal holidays must be used within the fiscal year. They cannot be cashed out or carried over to the next fiscal year.

Paid Vacation Benefits will match those of Exempt Staff starting July 1, 2023 based on continuous completed months of employment, with accrual matching the same schedule as the addendum adopted April 25, 2023 and going into effect July 1, 2023.

Starting July 1, 2023, City Manager will earn 10 hours per month for every month worked and so forth, following Exempt Staff paid vacation benefits schedule.

Approved:

Henry A. Balensifer III, Mayor

Accepted:

Esther Moberg, Employee



WARRENTON POLICE DEPARTMENT MONTHLY REPORT



TO: The Warrenton City Commission
FROM: Chief Mathew Workman
DATE: April 25, 2023
RE: March 2023 Stats Report

Upcoming Dates:

- April 28th to 30th Crab, Seafood, & Wine Festival
- May 1st CERT Meeting
- May 8th CCC CJ Advisory Meeting
- May 12th Natural Hazards Steering Meeting
- May 24th 911 Subscriber Board Meeting
- May 30th Citizens Academy at WPD

Highlights Since the Last Report:

- 04/01 Easter Egg Hunt at City Park, no issues
- 04/03 to 04/07 Chief at the OACP Conf. in Bend
- 04/11 Chief met with Warrenton School Admins to discuss Critical Incident Response
- 04/21 Chief attended Pursuit Risk Mitigation Class
- 04/22 DEA Drug Takeback Event
- 04/28 to 04/30 Crab, Seafood, & Wine Festival

Traffic Statistic Highlights:

- One (1) DUI Arrests (1-Alcohol, 0-Drugs)
- Fourteen (14) Driving While Suspended Citations/Arrests
- Two (2) Reckless/Careless Driving Arrest/Citation
- Two (2) Speeding Citations
- Ten (10) Insurance Citations
- Three (3) No Driver's License Citations
- One Hundred Twelve (112) other Citations and Warnings
- Fourteen (14) Accident Investigations

**TRAFFIC
STATISTICS**

Overall Statistics:

March Statistics (% changes are compared to 2022)							
Category	2023	2022	% Chg	2021	% Chg	2020	% Chg
Calls for Service	656	651	1%	772	-15%	592	11%
Incident Reports	212	218	-3%	224	-5%	149	42%
Arrests/Citations	119	133	-11%	181	-34%	166	-28%
Traffic Stops/ Events	144	129	12%	142	1%	156	-8%
DUI's	1	3	-67%	6	-83%	2	-50%
Traffic Accidents	14	13	8%	9	56%	12	17%
Property Crimes	87	116	-25%	96	-9%	82	6%
Person Crimes	61	68	-10%	80	-24%	56	9%
Drug/Narcotics Calls	3	1	200%	2	50%	3	0%
Animal Calls	26	36	-28%	22	18%	6	333%
Officer O.T.	116.8	193.8	-40%	63.25	85%	215.7	-46%
Reserve Hours	0	0	0%	0	0%	0	0%

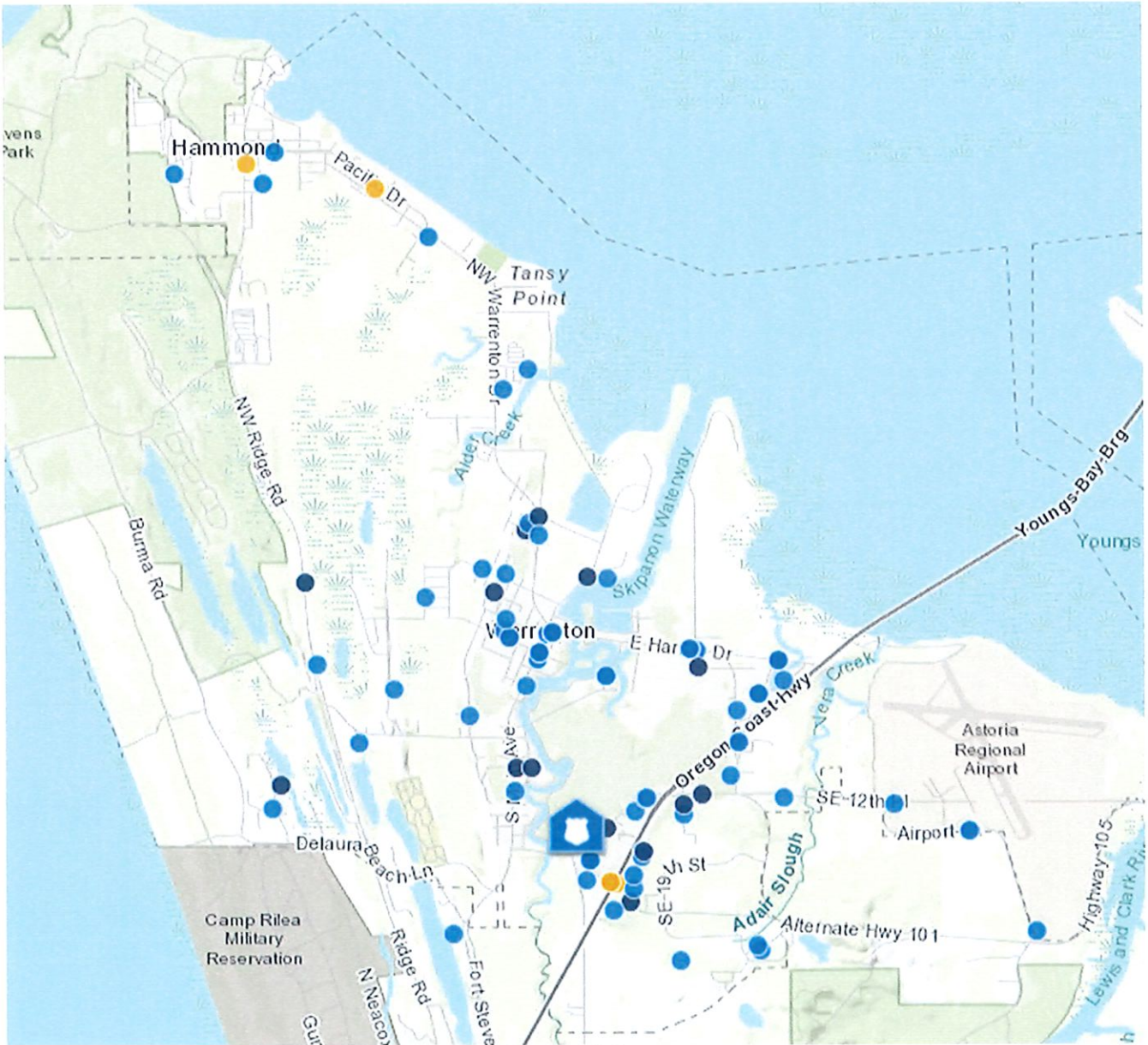
Category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Calls for Service	717	629	656						
Incident Reports	194	182	212						
Arrests/Citations	103	122	119						
Traffic Stops/ Events	218	208	144						
DUI's	3	1	1						
Traffic Accidents	25	10	14						
Property Crimes	69	94	87						
Person Crimes	64	57	61						
Drug/Narcotics Calls	5	1	3						
Animal Calls	19	22	26						
Officer O.T.	144.25	181.5	116.75						
Reserve Hours	0	0	0						

Oct	Nov	Dec	2023 YTD	2023 Estimate	2022	2023 v 2022	2021	2023 v. 2021	2020	2023 v. 2020
			2002	8008	8050	-1%	8669	-8%	7955	1%
			588	2352	2484	-5%	3160	-26%	2447	-4%
			344	1376	1602	-14%	2020	-32%	1891	-27%
			570	2280	1848	23%	2088	9%	1594	43%
			5	20	34	-41%	30	-33%	27	-26%
			49	196	168	17%	182	8%	229	-14%
			250	1000	1204	-17%	1267	-21%	1192	-16%
			182	728	811	-10%	1013	-28%	830	-12%
			9	36	40	-10%	36	0%	65	-45%
			67	268	273	-2%	253	6%	207	29%
			443	1770	2212.8	-20%	1503.1	18%	2075.4	-15%
			0	0	0	0%	0	0%	12.5	-100%

Homeless Incidents	2023	2022	2021	2020
Code 40 (Normal)	31	35	22	26
Code 41 (Aggressive)	0	1	1	1

Elk Incidents	2023	2022	2021
Interaction:	0	1	1
Traffic Accidents:	0	0	0
Traffic Complaints:	1	1	1
Total:	1	2	2

The following is a graphic representation of statistics for **March 2023** using our **CityProtect** membership (formerly [CrimeReports.com](https://www.cityprotect.com)). The “Dots” represent a location of a call and if you zoom in on the map you would see an icon for the type of call and some basic time/date details. Some dots represent multiple calls at one location. If you go to the website (www.cityprotect.com), you can zoom in on each incident for more details.





P.O. BOX 250 ■ WARRENTON, OR 97146 -0250 ■ OFFICE: 503.861.2233 ■ FAX: 503.861.2351

Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

April 25, 2023

Dear Secretary Buttigieg:

On behalf of the Warrenton City Commission, I am writing in support of the PIDP grant application submitted by the Port of Astoria for the rehabilitation of Pier 2 West. This pier is an economic driver of major importance to the region and the state. I am excited by the prospect of a stronger, more stable and enduring pier that will support the region's economic competitiveness for many decades to come.

Pier 2 West has little to no remaining design life. A substantial proportion of its structural timber components are in poor to critical condition. Large steel plates have been laid down on various portions of the dock to cover gaping holes in the asphalt and concrete decking. Sections of the dock are cordoned off from any use whatsoever. The Oregon Dept of Transportation has imposed a 3-ton weight limit on the dock. Although these measures allow operations to continue, they present significant safety issues and reduce the efficiency of the operations on the pier. The rapidly deteriorating condition imperils the reliability of the movement of goods across the pier. Without the rehabilitation work this grant will enable, fish processing operations are threatened.

Pier 2 West fish processing operations play a major role in both the regional and national commercial fishing industry. Production on Pier 2 West contributes almost half of total Astoria fish landings. Without the pier, Astoria would lose its place as 6th in the Nation for total pounds landed (182 million lbs in 2020). Based on a recent Economic Impact Analysis of Pier 2 West, the total *annual* economic output accruing to the state of Oregon from operations on the pier is just over \$130 million.

Failure of the pier would force the relocation of current operations and significantly increase truck vehicle miles traveled on U.S. highways; consequently, road maintenance costs, truck emissions, and road accidents & injuries would also increase. This project will ensure that the existing fish processing plants located on the pier will be able to continue their operations on Pier 2 West without interruption and thereby avoid these consequences.

Thank you for your consideration of the Port of Astoria's application. Feel free to contact me with any questions.

Henry A. Balensifer III
Mayor
City of Warrenton

“Making a difference through excellence of service”



BUILDING DEPARTMENT

QUARTERLY REPORT

JANUARY - MARCH, 2023 // PREPARED BY VAN WILFINGER; BUILDING OFFICIAL



Building Department

Quarterly Report: January - March, 2023

Quarter in Brief

The City of Warrenton Building Department continues to make improvements to the development and permitting process, and the sharing of information with the public and other departments. Staff continue to collaborate with colleagues in other departments as several staff changes have taken place throughout the organization.

The Building Department staff continue to develop and expand department capabilities with additional training and certifications. Building Permit Technician, Hallie Homolac, has started the Oregon Residential Inspector course through the state Building Codes Division.

Building Inspector, Christian Jensen, is working towards his ADA Accessibility Inspection certification and is on the waiting list to begin the Oregon Specialty Plumbing Inspector course through the state Building Codes Division.

Building Official, Van Wilfinger, has started the Oregon Residential Plumbing Inspector Course through the state Building Codes Division.

Challenges/Obstacles

The City of Warrenton Building Department offers an online building permit application, and tracking service provided through the State of Oregon ePermitting system. Contractors are able to apply for and purchase building permits for structural, mechanical, and plumbing projects, submit plans electronically, and schedule inspections all online via the State of Oregon ePermitting system.

Staff continue to work with other departments to develop clearly delineated requirements and well-defined procedures for addressing areas of concern through the City such as nuisances, failures to follow plans and regulations, and illegal recreational vehicles. Staff are working with management and the Commission on the improvements to the development process and aid in the performance of these duties



Building Department

Quarterly Report: January-March, 2023

Statistics

- 17 Commercial Permits Issued
- 43 Residential Permits Issued
- 193 Inspections Completed

Projects Completed

SDYB Fish Meal Plant are wrapping up the rest of their testing requirements and are intending to schedule final occupancy inspections, but the project is of substantial completion

Clatsop County Jail is currently under a Temporary Certificate of Occupancy. Final Occupancy will be granted once the correct water meter is in place.

Projects in Progress

Currently, the Building Department has the following active commercial and multi-family projects:



Building Department

Quarterly Report: January-March, 2023



Trillium House Apartments

42 units of affordable multi-family housing on approximately 1.54 acres, located in the Chelsea Gardens Neighborhood.

- 12 - 1 bedroom/1 bathroom
- 19 - 2 bedroom/1 bathroom
- 11 - 3 bedroom/1.5 bathroom

Project Status

Plumbing and building mechanical are in the process of being finalized. Final building inspection is scheduled for early May.



Building Department

Quarterly Report: January-March, 2023



Latitude 46 Apartments

28 unit apartment project (2 3-story 12 unit buildings, 1 4-plex building, 1 storage unit building), located at 1335 SE Jetty Avenue on approximately 1.08 acres. All units are 2 bedroom/1 bathroom.

Project Status

Under Construction; Buildings A and B have received exterior shear wall inspection approvals.



Building Department

Quarterly Report: January-March, 2023



SDYB Fishmeal Processing Plant

The SDYB fishmeal processing plant at the Warrenton-Astoria Regional Airport started construction in July of 2021. The facility will upcycle Da Yang and Bornstein fish trimmings from nearby seafood processing plants into fishmeal and fish oil.

Project Status

Anticipated completion and final Certificate of Occupancy April of 2023.



Building Department

Quarterly Report: January-March, 2023



The Roosevelt Subdivision

Total of 74 single family homes with development occurring in three phases. Currently in Phase 1 with 35 proposed single family homes with 7 single family dwelling permits currently issued.

Project Status

4 out of 7 buildings have received final occupancy. North River Homes will be submitting for lots 7,12,and 19.



Building Department

Quarterly Report: January-March, 2023



Osburn Plumbing Shop

A contractors 100'x100' office and warehouse on property located at 2207 SE. Dolphin Avenue.

Project Status

Under Construction; Received approval exterior shear wall inspection



Building Department

Quarterly Report: January-March, 2023



Robys Furniture

Approximately 27,000 square foot first floor and a 1,700 square foot mezzanine located at 1169 Alternate Hwy 101

- Showroom - 22,483 sqft,
- Warehouse - 4,286 sqft.
- Mezzanine/Office 1,690 sqft.

Project Status

Under Construction; Received approval for for slab/flat work.



Building Department

Quarterly Report: January-March, 2023



Clatsop County Jail

Expansion and remodel of the old Oregon Youth Authority building.

Project Status

Under Temporary Certificate of Occupancy; waiting for approvals from Public Works for the correct water meter installation.



WARRENTON CITY COMMISSION PUBLIC COMMENT FORM

NAME: Robert Burk

ADDRESS: 105 NE 5th Warrenton, OR 97146

EMAIL: rburk@warrenton.or.us

DOES YOUR COMMENT HAVE TO DO WITH AN AGENDA ITEM: (Y or N) N

BRIEFLY DESCRIBE YOUR TOPIC: Union Testimony.

PLEASE GIVE THIS CARD TO THE CITY RECORDER PRIOR TO THE MEETING

Once this card is submitted to the City Recorder, it becomes a part of the permanent public record.



WARRENTON CITY COMMISSION PUBLIC COMMENT FORM

NAME: Dave Davis

ADDRESS: 1581 S Main Ave.

EMAIL: Warrenton@gmail.com

DOES YOUR COMMENT HAVE TO DO WITH AN AGENDA ITEM: (Y or N) (Y)

BRIEFLY DESCRIBE YOUR TOPIC: Public works jobs

PLEASE GIVE THIS CARD TO THE CITY RECORDER PRIOR TO THE MEETING

Once this card is submitted to the City Recorder, it becomes a part of the permanent public record.



WARRENTON CITY COMMISSION PUBLIC COMMENT FORM

NAME: Carlyben Marshall

ADDRESS: 145 NW CEDAR AVE

EMAIL: _____

DOES YOUR COMMENT HAVE TO DO WITH AN AGENDA ITEM: (Y or N) _____

BRIEFLY DESCRIBE YOUR TOPIC: Building a team

PLEASE GIVE THIS CARD TO THE CITY RECORDER PRIOR TO THE MEETING

Once this card is submitted to the City Recorder, it becomes a part of the permanent public record.

From: Esther Moberg
Sent: Tuesday, April 18, 2023 3:51 PM
To: Dawne Shaw
Subject: FW: CIP workshop comments

From: Scott Widdicombe <scottwiddicombe94@gmail.com>
Sent: Tuesday, April 18, 2023 3:47 PM
To: Esther Moberg <emoberg@ci.warrenton.or.us>
Subject: CIP workshop comments

Hello Esther,

I have stopped attending public meetings of the Warrenton City Commission (both physically and by zoom) for the past 6 months because of a contentious relationship I have with the commission. I also never intend to attend any future meetings. However, this does not mean I do not intend to stay active in observing what the commission does on a regular basis as I will still have plenty to say if I see actions I strongly disagree with in the future.

If you review the minutes to the 4/12/22 city commission meeting you will note a comment from me to Mayor Balensifer at the bottom of page 1 and his response on the top of the second page. Based on his comment last year, this is my response to his instructions to me at that time.

Shown below are comments I am requesting you or the meeting recorder read into the next public meeting of the city commission. This might take a little over 3 minutes which is normally the maximum time allowed by commission meeting rules.

I would hope the commission would allow the reader to complete my comments so there is a tape recording along with a full written record in meeting minutes. However, if no time extension is allowed, I would ask the reader to read as far as time will allow.

If the commission will not accept written comments to be spoken by anyone other than the person that prepared the document to be read, all I can do is ask that these comments be put in file along with a note the commissioners were made fully aware of everything I said.

All the following information is the only part I request to be read at the meeting:

- **Every 5 years an outside contractor is hired to review every individual street in Warrenton to evaluate their current life expectancy and create a measurement reference tool known as PCI. This report stated a new street would have a PCI of 100 and a failed street would have a PCI of 10 or less.**

- The Warrenton City Commission has a strong preference to upgrade Warrenton streets to include curbs, sidewalks, and drainage. This preference eliminates most streets in Zip Code 97121.
- I can find no clear written procedure that describes a line of responsibility or procedure for what streets appear on the (CIP) or the (PMP) which sets specific criteria for adding or subtracting streets on or off either program. Public statements by the mayor indicate the public works department makes most of these decisions.
- The (CIP) street section is funded by Oregon State Fuel Tax grants from the (\$.38 a gallon) sales tax paid by all Warrenton residents when purchasing fuel locally.
- (PMP) funding uses PCI and remaining life as a guideline for which streets should be resurfaced using Warrenton City Fuel Tax (\$.03 a gallon) local fuel tax.
- The (PMP) has specific guidelines of what streets should be resurfaced using (PMP) local sales tax funding as selecting streets with a PCI of 55 or higher with no discussion of when a street should be completely rebuilt from scratch with an entirely new base. This is to allow paving more streets each year for lower cost than rebuilding streets below this PCI since they cost more to repair.
- I think the (CIP) should use the same guidelines as the (PMP) recommends while being used to rebuild streets that are in very poor condition with the PCI above 30, but below 55. It is a poor use of scarce money to resurface roads below 30 because of drainage issues and total cost to effectively resurface them and have them last for a reasonable length of time (at least 40 years).
- Traditionally, road upgrading, rebuilding, or resurfacing is an effective opportunity for people with political influence to ask for favors from government leaders or the public works department to gain an unfair advantage to have their streets preferred for street maintenance over others in the same city.
- There are many public advisory boards in Warrenton (Parks, Marina, Library, Urban Renewal, Budget, Planning Commission & Community Center). However, there is no public advisory board for street upgrading, rebuilding, or resurfacing..
- I have identified 7 major residential population areas in Warrenton where 1 volunteer homeowner from each of these areas could meet 4 times a year and bring in photographs of streets they feel are most in need of rebuilding or resurfacing including pothole problems for the area they live in.

- These 7 public volunteers could be provided with specific guidelines about technical details they must conform to (such as PCI, needs for curbs, sidewalks, drains, etc.) and told how much money is available for the full budget of each program by the public works director.
- This committee could physically visit all the streets they wish to consider and then meet and decide what is the fairest way to divide up the available revenue for each area in proportion to the number of streets and homes each area has in it. Then choose among themselves which streets to be recommended to the public works director and ultimately to the city commissioners.
- I am seeking a fair, balanced method for the public to participate in the selection process based on public works guidance of available revenue and specific technical requirements. The public works director would have the ultimate responsibility to approve the public advisory committee selections.
- The public works director should be required to offer a complete explanation of why they might decide one or more of this public advisory committee's recommended street selections cannot be considered for technical reasons only this person knows.
- On May 9th, 2019 (page 77) and on June 23rd, 2020 (page 81) the (CIP) included SW Alder Avenue between SW 1st St. and SW 2nd St. when SW Alder Avenue had a PCI of 80 and an expected remaining life of 33.95 years (see PMP page 3 of PCI ratings).
- This street was included as it was going to receive new drainage, curbs, and sidewalks. There was no detailed public discussion about this street in either year during the annual review of the (CIP). All commissioners voted for approval.
- \$300,000 of state fuel tax revenue was spent to rebuild this street surface from scratch (remove old rock base, resurface with new asphalt). None of this \$300,000 was for the curbs, drains or sidewalks. I think this type of decision should be discussed in a public meeting with the commissioners explaining why they feel this was a better choice to spend this money on this job than upgrading several other streets for the same amount of money.





AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: City Manager, Esther Moberg
DATE: April 25, 2023
SUBJ: Public Hearing – Sale of City Properties

SUMMARY

After a work session and discussion with the City Commission, the City Manager is putting forward for sale three City owned lots on Galena; Tax Lots 81022CB06300, 81022CB06900, and 81022CB07200. They do not reach the criteria of Chapter XI of the City's Charter to go before the voters on ballot. The City does not see a future use of these lots by the City of Warrenton and believes they are better suited to private ownership and placement on the tax rolls. The purpose of this public hearing is to take public comment on the proposed sale of these three specific properties. A motion of approval to move forward with sale by the City of Warrenton and authorizing the City Manager and City Realtor to transact sale of the lots.

RECOMMENDATION/SUGGESTED MOTION

"I move to approve the sale of Tax Lots 81022CB06300, 81022CB06900, and 81022CB07200 through the City's representative/broker."

ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

FISCAL IMPACT

Income from sales will be placed in the General Fund, Capital Improvement.



AGENDA MEMORANDUM

TO: The Warrenton City Commission

FROM: Mathew J. Workman, Chief of Police

DATE: April 25, 2023

SUBJ: Street and Traffic Code Amendments

SUMMARY

On November 22, 2022 the City Commission held a work session to discuss several City Ordinances and City Codes covering Streets, Sidewalks, Motor Vehicles, Parking, and the Transfer of Property in a public right-of-way. On January 23, 2023 Warrenton Police Department presented a discussion item to the Commission to clarify the previous discussion and to complete the discussion on part to be added to the code. The amendments and additions were submitted to the City Attorney for review and approval. The City Attorney and the Chief worked together to clean up the language in several part and to make the changes fit with current laws and practices. The attached ordinance includes the previously discussed amendments and the addition of the Transfer of Items portion that was written with the input from the Commissioners and staff.

RECOMMENDATION/SUGGESTED MOTION

Review the proposed ordinance that amends the current City Code and then move to have the first reading of the ordinance.

"I move to approve Ordinance No. 1263 amending the various sections of the City of Warrenton Municipal Code and adding Section 10.04.350 and Chapter 10.20 as stated, and to conduct the first reading."

ALTERNATIVE

Do nothing and leave the current Code as is.

FISCAL IMPACT

There will be slight fiscal impact if the code is changed as we will need to purchase and install signage at various locations where items are regularly transferred from vehicles to people.

ATTACHMENTS:

- Proposed Ordinance No. 1263.

Approved by City Manager: _____

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

ORDINANCE NO. 1263

Introduced by All Commissioners

AN ORDINANCE AMENDING CHAPTER 9.04 "OFFENSES" AND CHAPTER 10.04 "TRAFFIC REGULATIONS" OF THE WARRENTON MUNICIPAL CODE AND ADDING SECTION 10.04.350 "HEARING TO CONTEST VALIDITY OF IMPOUNDMENT" AND CHAPTER 10.20 "UNLAWFUL TRANSFER ON A HIGHWAY OR STREET" TO THE WARRENTON MUNICIPAL CODE

WHEREAS, the City last addressed these chapters of the City's Municipal Code in 1989; and

WHEREAS, the language of the code needs to be updates to be consistent with current vehicle descriptions, current legal approaches, and current court rulings; and

WHEREAS, the city needs to be able to address and regulate activity that occurs on our streets, sidewalks, and public rights-of-way to promote health, safety, and the flow of pedestrian and vehicular traffic;

NOW, THEREFORE, the City of Warrenton ordains as follows:

Section 1. Warrenton Municipal Code Section 9.04.010 Oregon Criminal Code Adopted is hereby amended to read as follows:

9.04.010 Oregon Criminal Code Adopted.

- (A) Oregon Revised Statutes, Chapters 161, 162, 163, 164, 165, 166 and 167, except for any provision classified as a felony under state law, are adopted by reference. Violation of an adopted provision of those chapters is an offense against this City.
- (B) The provisions of Oregon Revised Statutes, Chapter 161, relating to defenses, burden of proof, general principles of criminal liability, parties, and general principles of justification apply to offenses defined and made punishable by this chapter.
- (C) Except where the context clearly indicates a different meaning, definitions appearing in the general definitional and other particular sections of chapters adopted by subsection A of this section are applicable throughout this chapter.

Section 2. Warrenton Municipal Code Section 9.04.200 Prohibited Activity On Streets, Sidewalks, and Public Right-of-Way is hereby amended to read as follows:

9.04.200 Prohibited Activity On Streets, Sidewalks, and Public Right-of-Way.

No person shall use or occupy any portion of a street, sidewalk, or public right-of-way for the following purposes unless the person has first obtained a permit to do so from the City:

- (A) Selling or vending goods, wares, or merchandise.

- (B) Cooking or distributing food in connection with an event or other large gathering (ten or more individuals).
- (C) Distributing any other items for free or otherwise, except to the extent that such items are distributed as an expression of that person's freedom of speech, religion, or other expression protected by the First Amendment of the United States Constitution.

Notwithstanding the foregoing, the City shall not enforce this Section to restrict houseless individuals within City limits from using rudimentary forms of protection from the elements.

Section 3. Warrenton Municipal Code Section 10.04.020 Applicability of State Traffic Laws is hereby amended to read as follows:

10.04.020 Applicability of State Traffic Laws.

By virtue of the authority contained in Oregon Revised Statutes Section 221.330, Oregon Revised Statutes, Chapters 153, 743 and 801 through 823, inclusive, as now constituted, are adopted by this reference, section by section, word by word, in their entirety, except as expressly amended within this code, in all respects to the same legal force and effect as if set forth in full, and the City Municipal Court shall follow the procedure of such statutes with respect to traffic infractions, including for the disposition of abandoned vehicles.

Section 4. Warrenton Municipal Code Section 10.04.030 Definitions is hereby amended to read as follows:

10.04.030 Definitions.

- (A) In addition to those definitions contained in the Oregon Vehicle Code (ORS chapters 801 through 826), the following words or phrases in this Title 10, except where the context clearly indicates a different meaning, shall mean:

“Abandoned vehicle” means a vehicle that has been left in the same location, or within a five-hundred-foot radius of its earlier position on public property for at least twenty-four (24) consecutive hours and one or more of the following existing conditions:

- 1) The vehicle license plate or registration sticker has expired or has been canceled or altered, or the vehicle has a license plate from another vehicle.
- 2) The vehicle has no license plate or registration sticker.
- 3) The vehicle appears to be inoperative or disabled. A vehicle may be inoperative or disabled if it is affected by any one or more of the following conditions: (A) not in operating condition or apparently requires repairs to be in operating condition; (B) has broken headlights/taillights, broken windows, or flat tires, (C) is unable to move a distance of twenty (20) feet under its own power on a flat surface.
- 4) The vehicle appears to be wrecked, partially dismantled or junked including vehicles that lack an engine, transmission, wheel, tire, door, body panel, windshield, window, or any other part or equipment necessary to operate safely on the highways of this state.

- 5) The records of the Oregon Department of Transportation identify the vehicle as sold and the current owner of the vehicle has not registered the vehicle as required by state law.

“Bus stop” means a space on the edge of a roadway designated by sign for use by buses for loading and unloading of passengers.

“Electric assisted bicycle” or “E-bike” shall be as defined by ORS 801.258 (2020).

“Hazardous vehicle” means a vehicle left in a location or condition such as to constitute an immediate threat to public health and safety, the environment, or the safety of vehicular or pedestrian traffic, or in a manner prohibited code. Such locations and conditions include, but are not limited to:

- 1) The vehicle is blocking, impeding, or interfering with the vision or normal flow of vehicular, bicycle or pedestrian traffic on public streets and sidewalks;
- 2) The vehicle poses an immediate danger to the public or environmental safety, such as a vehicle with leaking gray or black water, or leaking other fluids that are at risk of entering into the public storm drains or causing a hazardous road condition;
- 3) The vehicle is subject to extreme vandalism (broken lamps, parts hanging off, slashed/damaged tires, safety equipment removed or damaged, etc.) or shattered glass;
- 4) The vehicle is parked or left standing on a street, public parking lot, or other area where immediate access is needed, or could be needed in the event of an emergency, by the fire department or the police department and their respective equipment;
- 5) The vehicle is parked or left standing on a street where snow removal equipment will soon clear the street and removal of the vehicle is reasonably necessary in order to clear the street;
- 6) The vehicle is blocking or within ten (10) feet of a fire hydrant.

“Highway, right-of-way, road or street” means the vehicular travel or turning lane or any associated shoulder, driveway or traffic divider area within the right-of-way where vehicles are reasonably expected to be encountered.

“Holiday” means New Year’s Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other proclaimed by the Commission to be a holiday.

“Loading zone” means a space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours or specified days.

“Motor vehicles” means a vehicle propelled or powered by a motor such as an automobile, bus, truck, tractor, farm machinery, motorcycle, two-wheeled scooter, moped, all-terrain vehicle, aircraft, recreational vehicle, golf cart, and go-cart. This definition includes a vehicle that is towed such as a trailer, camper shells, wheeled towing frames, semi-tractor trailers utility trailers, and towable boats.

This definition does not include electric assist bicycles, small engine lawn mowers, self-balancing personal transportation devices such as a Segway and devices of similar scale.

“Person” means a natural person, firm partnership, association or corporation.

“Storage” means the placing or leaving of a vehicle at the same location, or within a five hundred (500) foot radius of such location, for a period of time in excess of (A) seventy-two (72) consecutive hours if such vehicle or property is located adjacent to the owner’s address and meets the requirements of 10.04.140.B, and (B) twenty-four (24) consecutive hours for all other located vehicles [or personal property].

“Street” means highway, road or street as the same are defined in ORS 801.110, 801.305, 801.450 and 801.535, including the entire width of the right-of-way.

“Taxicab stand” means a space on the edge of a roadway designated by sign for use by taxicabs.

“Traffic lane” means that area of the roadway used for the movement of a single line of traffic.

“Vehicle,” as used in subsequent sections of this chapter, includes bicycles as well as electric assisted bicycles and any device in, upon or by which any person, animal or property is or may be transported, drawn or moved upon a street, highway, waterway or airway and includes vehicles that are propelled or powered by any means, including motor vehicles.

- (B) As used in this chapter, the singular includes the plural, and the masculine includes the feminine.

Section 5. Warrenton Municipal Code Section 10.04.160 Prohibited Parking or Standing is hereby amended to read as follows:

10.04.160 Prohibited Parking or Standing.

In addition to the State motor vehicle laws prohibiting parking, as adopted pursuant to 10.04.020, no person shall park or stand:

- (A) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of thirty (30) consecutive minutes.
- (B) A vehicle upon a bridge, viaduct or other elevated structure used as a street, or within a street tunnel, unless authorized.
- (C) Any vehicle having an overall width in excess of six feet, six inches between the hours of 7:00 p.m. and 4:00 a.m. of the following day except for loading or unloading, or in an emergency, on any street in a residential zone. A vehicle described in the preceding sentence may park in an industrial or commercial zone during the hours described in the preceding sentence, unless the roadway width is less than thirty-four (34) feet from curb to curb.

(D) No person shall park a vehicle, whether occupied or not, or place any obstruction that would impede mail delivery or create a hazard, in front of or within 15 feet on either side of a curbside mailbox or other place where mail is received or deposited, on postal delivery days between 8:00 a.m. and 6:00 p.m., except in the following instances:

- 1) Except when necessary to avoid conflict with other traffic, or
- 2) In compliance with law or directions of a police officer or official traffic control device, or
- 3) Momentarily to pick up or discharge a passenger or passengers.

Section 6. Warrenton Municipal Code Section 10.04.170 Prohibited Practices is hereby amended to read as follows:

10.04.170 Prohibited Practices.

No person shall do any of the following upon a street, right-of-way, or other public property:

- (A) Displaying the vehicle for sale.
- (B) Repair or service a vehicle, except when repairs are necessitated by an emergency.

Section 7. Warrenton Municipal Code Section 10.04.260 Citation on Illegally Parked Vehicle is hereby amended to read as follows:

10.04.260 Citation on Illegally Parked Vehicle.

- (A) Whenever a vehicle without an operator is found parked in violation of a restriction imposed by any portion of this Title 10 chapter other than those provisions regarding abandoned vehicles, stored vehicles, or hazardous vehicles, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a traffic citation instructing the operator to answer to the charge against him or her or pay the penalty imposed within 10 days during the hours and at a place specified in the citation.
- (B) Whenever a City officer finds an abandoned or wrongfully stored vehicle, the officer finding the vehicle shall, in either case, provide advance notice substantially similar to the form, substance, and time periods provided under ORS 819.110 and ORS 819.179.

Section 8. Warrenton Municipal Code Section 10.04.270 Failure To Comply with Traffic Citation Attached to Parked Vehicle is hereby amended to read as follows:

10.04.270 Failure To Comply with Traffic Citation Attached to Parked Vehicle.

- (A) For all violations of this Title 10 other than a violation due to an abandoned vehicle, stored vehicle, or hazardous vehicle, if the operator does not respond to a traffic citation affixed to a vehicle within a period of 10 days, the City Manager may send to the owner of the vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning him or her that in the event that the letter is disregarded for a period of 30 days.

- 1) The fine will be double.
- 2) If the vehicle has four or more outstanding citations or \$100.00 or more in unpaid fines, it may be impounded. Impounded vehicles shall only be released in accordance with Section 10.04.310.
- 3) For all violations due to an abandoned vehicle or a stored vehicle, if the operator does not respond within the required time period, the City may impound the vehicle according to Article VIII.

Section 9. Warrenton Municipal Code Section 10.04.310 Impoundment of Vehicles is hereby amended to read as follows:

10.04.310 Impoundment of Vehicles.

- (A) Notwithstanding Article VII, whenever a vehicle is a hazardous vehicle, a police officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be immediately towed without notice and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner but subsequently became a hazardous vehicle. The City shall provide notice following such impoundment that is substantially similar to the form, substance, and time periods provided under ORS 819.110 and ORS 819.179.
- (B) After providing the notice required by this chapter and, if requested, a hearing as provided by this chapter, any abandoned vehicle, stored vehicle remaining in violation of this Title 10, or other vehicle remaining in violation of section 10.04.270 may be impounded in a manner that is consistent with ORS 819.110 through ORS 819.160 and ultimately disposed of in a manner that is consistent with ORS 819.210 through ORS 819.280.
- (C) The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this chapter.
- (D) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.

Section 10. Warrenton Municipal Code Section 10.04.340 Penalties is hereby amended to read as follows:

10.04.340 Penalties.

- (A) Violation of Sections 10.04.090 through 10.04.140 is punishable by a fine not to exceed \$100.00.
- (B) Violation of Sections 10.04.150 through 10.04.260 is punishable by a fine not to exceed \$50.00.
- (C) Violation of a provision identical to a state statute is punishable by a fine not to exceed the penalty prescribed by the state statute.

Section 11. Warrenton Municipal Code Section 10.04.350 Hearing to Contest the Validity of Impoundment is hereby added to read as follows:

10.04.350 Hearing to Contest the Validity of Impoundment

A person provided notice under this chapter, or any other person who reasonably appears to have an interest in the vehicle, may request a hearing under this section to contest the validity of the impoundment or the proposed impoundment by submitting a request for hearing with the municipal court not more than five business days after the mailing date of the notice. A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the removal of the vehicle is not justified. A hearing under this section shall comply with all of the following:

- (A) If the city proposes to remove a vehicle and receives a request for hearing before the vehicle is removed, the vehicle shall not be removed unless it constitutes a hazard.
- (B) The municipal court shall set a time for a hearing within seven business days after receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owner(s) of the vehicle and any lessors or security interest holders shown in the records of the department of motor vehicles, if not the same as the person requesting the hearing, and to the city attorney's office.
- (C) If the municipal court finds, after a hearing and by substantial evidence on the record, that the removal of a vehicle was or would be:
 - 1) Invalid, the municipal court shall order the immediate release of the vehicle to the owner or person with the right to possession. If the vehicle is released under this subsection, the person to whom the vehicle is released is not liable for any towing or storage charges accruing prior to the order of the municipal court. If the person has already paid such towing and storage charges on the vehicle, the city shall reimburse the person for the charges. The person shall be liable for any additional storage charges incurred after the order. New storage charges for the vehicle will not start to accrue until twenty-four (24) hours after the issuance of the order. If the vehicle has not yet been removed, the city shall not remove the vehicle.
 - 2) Valid, the municipal court shall order the vehicle to be held in custody until the costs of the hearing are paid by the person claiming the vehicle, and the person claiming the vehicle otherwise complies with any conditions of release of the vehicle. If the vehicle has not yet been removed, the city shall order its removal.
- (D) If the person requesting the hearing does not appear at the hearing, the municipal court may enter an order finding the removal to be valid and any applicable charges to be reasonable.
- (E) A person who fails to appear at a hearing under this section is not entitled to another hearing on the same matter unless the person provides reasons satisfactory to the municipal court for the person's failure to appear.
- (F) The city is only required to provide one hearing under this section for each time the city removes a vehicle or proposes to do so.
- (G) A hearing under this section may be used to determine the reasonableness of the charges for towing and storage of a vehicle. Towing and storage charges, set by law, ordinance, or rule, or that comply with law, ordinance, or rule, shall be deemed reasonable for purposes of this chapter. If the reasonableness of charges for towing and storage of a vehicle are contested through a hearing under this section, the municipal court shall enter an order setting forth the amount of towing and storage charges the court has determined to be reasonable.
- (H) The municipal court shall provide a written statement of the results of the hearing to the person requesting the hearing and to the city attorney's office.
- (I) The action of the municipal court is final, and no appeal can be taken from it.

Section 12. Warrenton Municipal Code Section 10.04.360 Abandoned Vehicles Prohibited is hereby amended to read as follows:

10.04.360 Abandoned Vehicles Prohibited.

- (A) No abandoned vehicle may be parked or left standing upon the right-of-way of any city, county, or state highway, street or alley or upon any city property.
- (B) Abandoned vehicle(s) will need to move more than one five hundred (500) feet to become compliant.
- (C) The City may impound and dispose of an abandoned vehicle by following the procedures in ORS 819.110 to ORS 819.440.
- (D) Any person found violating this section 10.04.350 shall be guilty of committing a traffic violation punishable by a fine not to exceed \$265 per occurrence.

Section 13. Warrenton Municipal Code Section 10.04.370 Hazardous Vehicles Prohibited is hereby amended to read as follows:

10.04.370 Hazardous Vehicles Prohibited.

- (A) No person shall store, or permit to be stored on a street, sidewalk, public right-of-way, or other public property without permission of the City for a period in excess of 24 hours.
- (B) A vehicle may be stored on the street adjacent to the address where the vehicle is registered for up to 72 consecutive hours, if parking is permitted on that street, the vehicle is not an abandoned or hazardous vehicle (as defined in 10.04.030), and the vehicle is otherwise compliant under this code.
- (C) If, due to a disaster situation, emergency situation, renovation or other work within a standard parking spot beyond the owner's control, or other circumstances beyond the vehicle owner's control, a vehicle must be stored on the street for longer than the prescribed time limits under this Section 10.04.380, then a person can obtain temporary storage permit for the vehicle from the City for longer than the prescribed time limits in this Section.
- (D) Vehicle(s) that are stored will need to move more than five hundred (500) feet in order to become compliant.
- (E) The City may impound or dispose of a stored vehicle in violation of this section following the procedures of Article VII and Article VIII. Officers shall make a reasonable attempt to contact the registered or current owner prior to removing or towing the vehicle and/or other personal property.
- (F) Any person found violating this 10.04.140 shall be guilty of committing a traffic violation punishable by a fine not to exceed \$100 per occurrence.

Section 14. Warrenton Municipal Code Chapter 10.20 Unlawful Transfer on a Highway or Street is hereby added to read as follows:

10.20 Unlawful Transfer on a Highway or Street.

10.20.010 Offenses

A person commits the offense of unlawful transfer on a highway or street if the person:

- (A) While a driver or passenger in a vehicle on a highway, right-of-way, road or street within the boundaries of the City of Warrenton, gives or relinquishes possession or control of, or allows another person in the vehicle to give or relinquish possession or control of, any item to a pedestrian; or
- (B) While a pedestrian, accepts, receives, or retains possession or control of any item from a driver or passenger in a vehicle on a highway, right-of-way, road or street within the boundaries of the City of Warrenton.

10.20.010 Applicability

The prohibitions of this section do not apply:

- (A) If the vehicle is legally parked during a law enforcement stop or action, or located on or off the right-of-way or during a law enforcement stop or action; or
- (B) If the vehicle is parked due to an emergency situation beyond the driver's reasonable control; or
- (C) To persons participating in a "pedestrian activity," as defined in OAR 734 Division 58, for which a permit has been issued by the Oregon Department of Transportation, so long as all terms of such permit are being met..

10.20.020 Penalty

Any person found violating this chapter 10.20 shall be guilty of committing a traffic violation punishable by a fine not to exceed \$100 per occurrence.

Section 15. This Ordinance shall become effective thirty days after its adoption.

First Reading: April 25, 2023

Second Reading: May 9, 2023

ADOPTED by the City Commission of the City of Warrenton, Oregon this 25th day of April 2023.

APPROVED

ATTEST

Henry A. Balensifer III, Mayor

Dawne Shaw, CMC, City Recorder



AGENDA MEMORANDUM

TO: The Warrenton City Commission
 FROM: Esther Moberg, City Manager
 DATE: April 25, 2023
 SUBJ: Lot Lease to Kia

SUMMARY

Since the 1980's, Kia has held a lease with the City of Warrenton for three parcels in a lot in the dealership area. In 2012, the lease expired. Since then, Kia has just paid the same amount on a month-by-month basis. The City Manager would like to see the lease with Vince and Patricia Williams renewed for 1 year, with built in extensions up to three years total, while we review selling the lots and move forward with the process of preparing for possible sale of these parcels and/or lot.

RECOMMENDATION/SUGGESTED MOTION

I move to approve the lease with the Kia auto dealership that is owned by Vince and Patricia Williams.

ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

FISCAL IMPACT

N/A or...budgeted....or how funded

Approved by City Manager: _____

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

**CITY OF WARRENTON
AND
VINCENT J. WILLIAMS and PATRICIA WILLIAMS**

Lease Agreement

This LAND LEASE (this “Lease”) is made and entered into on _____, 20____ (the “Commencement Date”), by and between the City of Warrenton, a municipal corporation (“Landlord”), and Vincent J. Williams and Patricia Williams, (“Tenant”) (collectively, the “Parties”).

This Lease is made pursuant to ORS 271.310, as amended, which authorizes units of local government to enter into lease agreements for real property not needed for public use, or when the public interest may be furthered by entering into such a lease agreement.

RECITALS

A. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, a portion of that real property and related improvements commonly known as the Lots 13, 14, and 15, Block 58, WARRENTON PARK, in the City of Warrenton, Clatsop County, State of Oregon as more particularly described in attached Exhibit A, together with any and all rights, privileges, easements, and appurtenances thereto (the “Premises”).

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Lease agree as follows:

ARTICLE 1

Premises

Landlord does hereby demise, lease, and let unto Tenant, and Tenant does hereby take and lease from Landlord, the Premises for the term and on the rents, conditions, and provisions herein.

ARTICLE 2

Lease Term

2.1 Initial Term. Starting on the Commencement Date, the Premises will be leased for a term of one (1) year (the “Initial Term”), unless earlier terminated pursuant to the terms of this Lease.

2.2 Extended Terms. The term of this Agreement may be extended for up to two (2) additional one-year periods.

2.2.1 First Extension. The term of this Agreement shall automatically extend for the first of the two, one-year extension periods at the end of the Initial Term (the “First Extended Term”), unless either Party provides written notice of intent not to extend to the other Party not less than ninety (90) days before the expiration of the Initial Term. Upon exercise of this first option to extend, the term of this Lease will be extended through the expiration date of the First Extended Term on the same terms and conditions as contained in this Lease.

2.2.2 Second Extension The term of this Agreement shall automatically extend for the second of the two, one-year term extension periods at the end of the First Extended Term (the “Second Extended Term”), unless either Party provides written notice of intent not to extend to the other Party not less than ninety (90) days before the expiration of the First Extended Term. Upon exercise of this second option to extend, the term of this Lease will be extended through the expiration date of the Second Extended Term on the same terms and conditions as contained in this Lease.

2.3 Early Termination. Notwithstanding anything in this Lease to the contrary, Landlord has the right to terminate this Lease within the time periods and for the reasons set forth below:

2.3.1 Sale of Property or Portion of Property. In the event Landlord enters into a purchase and sale agreement for the sale of the Property or a portion of the Property, the Landlord will provide sixty (60) days written notice of termination of the Lease to the Tenant. In the event of the sale of a portion of the Property, the parties agree to amend this Lease to cover the remaining portions of the Property.

2.3.2 Tenant Failure to Pay Rent. Landlord may terminate this lease for Tenant’s failure to pay Rent as provided in this Lease and such failure continues and is not remedied within thirty (30) days after written notice thereof is given to Tenant by Landlord.

2.3.3 Tenant Default. Landlord may terminate this Lease for any Default, in addition to the failure to pay Rent, as provided in Article 13 of this Lease below.

2.3.4 Termination by Mutual Consent. This Contract may otherwise be terminated only with the mutual written consent of both Parties. Upon reaching such mutual written consent, Tenant shall provide fourteen days’ written notice to Landlord of Tenant’s intent to vacate the Premises.

ARTICLE 3

Rent

3.1 Rent for Initial Term. The base rent for the first year of this Lease shall be the sum of \$300.00 per month. Rent shall increase each year thereafter an additional \$60 per year, or \$5 per month. the initial stated Rent amount provided in this Section 3.1.

3.2 Rent For First Extension. If the Lease Term is extended through the First Extended Term at the end of the Initial Term, Rent shall increase as provided in Section 3.1, above.

3.3 Rent for Second Extension. If the Lease Term is extended through the Second Extended Term at the end of the First Extended Term, Rent shall increase again as provided in Section 3.2, above.

3.4 Payment of Rent. Rent is payable in advance, commencing on the Commencement Date and thereafter by the first day of each month throughout the Lease Term, without notice or demand and without abatement, deduction or setoff except as otherwise provided in this Lease. If the Commencement Date is a day other than the first day of a month, Rent payable on the Commencement Date will be prorated based on the number of remaining days that will elapse during that month following the Commencement Date. Rent and all other amounts payable to Landlord under the terms of this Lease must be hand delivered to Landlord at its office, located at 225 South Main Avenue Warrenton, Oregon 97146, or mailed to Landlord at P.O. Box 250 Warrenton, Oregon, 97146, or at such other place as Landlord may designate by notice to Tenant, in lawful money of the United States.

ARTICLE 4

Use and Maintenance

4.1 Permitted Use.

4.1.1 No Hazardous Materials; Hazardous Materials Indemnification. Tenant shall not permit any Hazardous Materials to be brought upon, kept or used in or about the Premises by Tenant, Tenant's agents, employees, contractors, invitees or licensees without the prior written consent of City. Tenant shall indemnify, defend and hold the City harmless from any and all actual and threatened claims, judgments, damages, penalties, fines, costs, liabilities and losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use or rent of the Premises, damages arising from and adverse impact on marketing of the Premises, and sums paid in settlement of claims, attorney fees, consultant fees, and expert fees) that arise during or after the Term of this Lease, including any applicable extensions, due to contamination by Hazardous Materials. This indemnification of City by Tenant is in addition to the indemnifications provided to City by Tenant in Article 8, below, and includes without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial removal or restoration work required by any governmental agency or political subdivision because of the presence of Hazardous Materials in the soil or groundwater of the Premises. Without limiting the foregoing, in the event that Hazardous Material are discovered in the soil or groundwater of the Premises, Tenant shall promptly take all actions at Tenant's sole expense as are necessary to return the Premises to the condition prior to the release of the Hazardous Materials onto the Premises, provided that City's approval of such action shall be first be obtained, and shall not be unreasonable withheld by the City so long as such action(s) will not potentially have any material adverse long-term or short-term effect on the Premises. The

foregoing indemnification shall survive the expiration or earlier termination of this Lease, for whatever reason.

4.1.2 Hazardous Materials Defined. As used in this Lease, the term “Hazardous Materials” means any hazardous or toxic substance, material or waste including, but not limited to, those substances materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302), and amendments thereto, as well as any petroleum products and any and all other substances, materials and wastes that are or become regulated under any applicable local state or federal law. “Hazardous Materials” also include “hazardous waste” as defined by ORS 466.005, as well as any substance identified as a “toxic substance” under 42 U.S.C. 11023, as amended, and any substance designated a “toxic substance” or “hazardous waste” by the Oregon Environmental Quality Commission pursuant to ORS 465.009.

4.2 No Waste. Tenant will not cause or permit any waste, damage, disfigurement, or injury to the Premises, or any improvements to the Premises.

4.3 No Liens or Encumbrances. Tenant shall not permit any lien or encumbrance, of any kind, type or description, to be placed or imposed on, or attach to, the Premises or any part thereof.

ARTICLE 5

Improvements

5.1 Construction, Modification, and Demolition of Improvements. Tenant shall not undertake the construction, modification, installation, removal or demolition of any improvements on the Premises during the Term of this Agreement, or any extension, without first obtaining Landlord’s prior written consent. Any such construction, modification, installation, removal or demolition of any improvements on the Premises shall be at Tenant’s sole cost and expense.

5.2 Title to Improvements. Title to all Improvements constructed by Tenant will be and will remain in Tenant during the Term of the Lease, and may be modified, removed or demolished by Tenant only as provided in Section 5.1 above. At the expiration or earlier termination of the Lease, title to any Improvements remaining on the Premises will automatically pass to, vest in, and belong to Landlord without further action on the part of either party and without cost or charge to Landlord. If so requested by Landlord, Tenant shall remove any Improvements prior to vacating the Premises and leave the Premises, in Landlord’s sole discretion, in no worse condition than existed before the installation of the subject Improvement.

ARTICLE 6

Records

6.1 Retention of Records. Tenant shall retain all books, documents, papers and records that are directly pertinent to its use of the Premises for at least three (3) years after the termination or expiration of this Agreement.

6.2 Record Examination by Landlord. Tenant shall allow Landlord, or any of its authorized representatives, to audit, examine, copy, take excerpts from or transcribe and books, documents, papers, or records that are subject to the foregoing retention requirement provided in Section 6.1, above.

ARTICLE 7

Insurance

7.2 Liability Insurance. Tenant, at its sole cost and expense, will maintain commercial general liability insurance covering the Premises, the Improvements, and the conduct or operation of its business, with limits of loss of at least \$2 million combined single-limit coverage for personal injury and property damage. The insurance policy must be primary to any insurance available to Landlord, and must name Landlord as an additional insured. Tenant's insurance carriers must be reputable insurance companies reasonably acceptable to Landlord, licensed to do business in the State of Oregon, and have a minimum A-VIII rating as Tenant will provide Landlord with certificates of insurance concurrently with the execution of this Lease and upon request.

7.1 Property Insurance. Tenant, at its sole cost and expense, will keep the Premises and all Improvements insured against loss or damage by property insurance written on the standard Insurance Services Office (ISO) "special-form" policy, or its nearest equivalent in use at the time. Tenant will obtain endorsements to its special-form policy to maintain the following types of coverage to the extent required by Landlord and available at commercially reasonable rates: (a) flood and (b) earthquake. The property insurance must cover the full replacement value of the Improvements, less a deductible not to exceed \$2,500.00.

ARTICLE 8

Release and Indemnification

8.1 Release. Tenant is and will be in exclusive control of the Premises and the Improvements, and Landlord will not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in, or about the Premises or Improvements, or any injury or damage to the Premises or the Improvements or to any property, whether belonging to Tenant or to any other person, caused by any fire, breakage, leakage, defect, or bad condition on any part of the Premises or the Improvements, or from steam, gas, electricity, water, rain, or snow that may leak into, issue, or flow from any part of the Premises or the Improvements from the drains, pipes, or plumbing work of the same, or from the street, subsurface, or any place or

quarter, or because of the use, misuse, or abuse of all or any of any Improvements, or from any kind of injury that may arise from any other cause whatsoever on the Premises or in or on any Improvements, including defects in construction of Improvements, latent or otherwise. Tenant hereby releases Landlord from and against any and all liabilities resulting from any such injuries and damages. Landlord acknowledges that it remains responsible for liability to any third party to the extent that the liability arises from Landlord's own gross negligence or willful misconduct.

8.2 Indemnification. Except to the extent caused by the gross negligence or willful misconduct of Landlord and subject to the tort limitations in the Oregon Tort Claims Act and the Oregon Constitution, Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all liabilities, obligations, damages, fines, penalties, claims, costs, charges, and expenses (including, without limitation, reasonable attorney fees) that may be imposed on or incurred by or asserted against Landlord by reason of any of the following occurrences during the Term:

(a) Any work or thing done in, on, or about all or any part of the Premises or Improvements by Tenant or any party other than Landlord;

(b) Any use, nonuse, possession, occupation, condition, operation, maintenance, or management of all or any part of the Premises or Improvements or any adjacent alley, sidewalk, curb, vault, passageway, or space related to use of the Premises;

(c) Any negligence on the part of Tenant or any of its agents, contractors, servants, employees, subtenants, permittees, licensees, or invitees;

(d) Any accident, injury, or damage to any person or property occurring in, on, or about the Premises or Improvements, even if caused in part by the negligence of Landlord, but only up to the limits of Tenant's liability insurance coverage with respect to any such negligence of Landlord; and

ARTICLE 9

Repairs and Maintenance

9.1 Tenant Obligation. Tenant must maintain, repair, and replace the Premises and the Improvements as and when needed so as to keep them in a clean and attractive condition, and in good condition and repair, throughout the entire Lease Term, including any applicable extensions thereto. Tenant's obligations extend to both structural and nonstructural items and to all maintenance, repair, and replacement work.

9.2 Landlord Obligation. Landlord is not required to furnish to Tenant, the Premises, or the Improvements: any facilities, utilities, or services. Landlord is not required to make any alterations, rebuildings, replacements, changes, additions, improvements, or repairs to any portion of the Premises or the Improvements.

9.3 Limited Assignment of Rights. Landlord assigns to Tenant, any rights that Landlord may have against any parties causing damage to the Improvements on the Premises to sue for and recover amounts expended by Tenant as a result of the damage.

ARTICLE 10

Signage

Tenant is permitted to install and maintain signage on the Premises and Improvements, so long as in so doing Tenant complies with all applicable legal requirements.

ARTICLE 11

Damage and Destruction

If any Improvements on the Premises are damaged or destroyed by fire or other casualty, Tenant must (a) promptly restore the damaged Improvements to a comparable condition existing before the casualty; or (b) promptly remove all damaged Improvements and leave the Premises in a clean, attractive, and safe condition.

ARTICLE 12

Assignment and Subletting

12.1 Limitations on Transfers. Tenant must not sell, assign, or transfer this Lease or any interest therein, sublet the Premises or any part thereof, or grant any right to use the Premises, the Improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Landlord. Landlord's consent to a Transfer will in no event release Tenant, any assignee, or any guarantor from their respective liabilities or obligations under this Lease. Upon written request by Landlord, Tenant will promptly deliver to Landlord complete copies of any and all subleases.

ARTICLE 13

Default

The occurrence of any one or more of the following constitutes an event of default under this Lease:

(a) Failure by Tenant to pay Rent when due and payable as provided under the terms of this Lease;

(b) Failure by Tenant to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease, and such failure continues and is not remedied within ten (10) days after written notice thereof is given to Tenant;

(c) Failure by Tenant, whether by action or inaction, to comply with any other material term or condition, or fulfill any other material obligation under this Lease, and such failure continues and is not remedied within thirty (30) days after written notice thereof is given to Tenant; provided, however, that if the failure is of such a nature that it cannot reasonably be cured within said 30-day period, then this provision is satisfied if Tenant begins the cure within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within ninety (90) days after Landlord's notice is given to Tenant.

ARTICLE 14

Disputes

14.1 Mediation. Should any dispute arise between the parties to this Agreement concerning their respective obligations of either or the terms hereof, it is agreed that such dispute will be submitted to a mediator prior to any litigation and the parties hereby expressly agree that no claim or dispute arising under the terms of this Agreement shall be resolved other than first through mediation and only in the event said mediation efforts fail, through litigation. The parties shall exercise good faith efforts to select a mediator, who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If either party requests mediation, and the other party fails to respond within ten (10) days, or if the parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Washington County Circuit Court upon the request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this Section.

14.2 Litigation. In the event that mediation of a dispute arising out of this Agreement is unsuccessful, any litigation arising under or as a result of this Agreement shall be tried to the court without a jury.

14.3 Attorneys' Fees. In the event any suit or action is instituted to interpret or enforce the terms of this Agreement, or to rescind this Agreement, the substantially prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on any appeal, and on any petition for review, in addition to all other sums provided by law.

ARTICLE 15

Remedies

15.1 Remedies. Upon the occurrence of default and after the notice process provided in Article 14 above, Landlord may remedy the default and demand reimbursement from Tenant.

15.2 Landlord's Self-Help Right. If Tenant at any time (a) fails to make any payment required under this Lease, or (b) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Tenant (or without notice in the

event of an emergency) and without waiving or releasing Tenant from any obligation of Tenant contained in this Lease or from any default by Tenant and without waiving Landlord's right to take any action that is permissible under this Lease as a result of the default, Landlord may, but is under no obligation to, (i) pay payment required of Tenant under this Lease, and (ii) perform any other act on Tenant's part to be made or performed as provided in this Lease, and may enter the Premises and Improvements for any such purpose, and take any action that may be necessary. All payments so made by Landlord in connection with the performance of any such act will constitute additional rent payable by Tenant under this Lease and must be paid to Landlord on demand.

15.3 No Waiver. No failure by the Parties to insist on the strict performance of this Lease or to exercise any right or remedy and no acceptance of full or partial Rent during any such breach, constitutes a waiver.

ARTICLE 16

Sale by Landlord and Limitation of Landlord's Liability

16.1 Sale by Landlord. If the Landlord under this Lease, or any successor owner of the Premises, sells or conveys the same to another governmental entity or any other party, and the Landlord does not terminate the Lease as set forth in Section 2.3.1, the new owner shall assume the obligations of Landlord under this Lease, and all liabilities and obligations on the part of the original Landlord or the successor owner under this Lease accruing thereafter will terminate, and thereupon all such liabilities and obligations will be binding on the new owner. Tenant agrees to attorn to the new owner.

ARTICLE 17

SURRENDER AND HOLDOVER

17.1 Condition of Premises and Improvements. Upon expiration of the Term or earlier termination of this Lease, Tenant will deliver all keys to Landlord and surrender the Premises and Improvements in good condition and repair and broom clean (reasonable wear and tear excepted), free and clear of all occupancies. Tenant's obligations under this Article will be subject to the provisions of Article 15 relating to damage or destruction.

17.2 Tenant's Property. Before the expiration or earlier termination of this Lease, Tenant will remove all furnishings, furniture, and trade fixtures that remain Tenant's property (the "Tenant's Property").

17.3 Holding Over. Any holding over after the expiration of this Lease, including any applicable extensions, will be construed to be a tenancy from month-to-month, at 120% percent of the Rent payable for the period immediately before the expiration of the Lease and will otherwise be on the same terms and conditions as contained in this Lease. If Landlord consents to Tenant holding over, either Party may thereafter terminate the tenancy at any time on 30 days' advance written notice to the other Party.

ARTICLE 18

Condition of Premises

Tenant acknowledges that it has had the opportunity to examine the physical condition of the Premises (including whether the Premises contains any Hazardous Substances or fails to comply with any Environmental Laws) and as a result agrees to accept the Premises in "as-is" condition, with all faults. Tenant further acknowledges that no representations or warranties regarding the condition of the Premises have been made by Landlord or any agent or person acting for Landlord.

ARTICLE 19

Quiet Enjoyment

Tenant will have quiet enjoyment of the Premises during the Term without hindrance or disturbance by any person claiming by, through, or under Landlord, subject, however, to Landlord's reasonable right to enter the Premises pursuant to Section 15.2, above, and as provided elsewhere in this Lease.

ARTICLE 20

Notices

20.1 Notice Parties and Means of Delivery. Any notice required or permitted by the terms of this Lease will be deemed given if delivered personally, sent by United States registered or certified mail, postage prepaid, return receipt requested, or sent by fax with electronic confirmation of fax receipt, and addressed as follows:

If to Landlord:	City of Warrenton P.O. Box 250 Warrenton, Oregon 97146
Attn:	City Manager
Fax:	(503) 861-2351
With a copy to:	Beery, Elsner & Hammond, LLB 1804 NE 45 th Avenue Portland, OR 97213
Attn:	City Attorney
Fax:	(503) 226-2348
If to Tenant:	_____
Attn:	_____
Fax:	_____

With a copy to: _____
Attn: _____
Fax: _____

ARTICLE 21

Reserved

ARTICLE 22

Miscellaneous

22.1 Survival. All agreements (including, but not limited to, indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

22.2 Invalidity. If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

22.3 Force Majeure. If either Party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any Legal Requirement (and not attributable to an act or omission of the Party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the Party's control, whether or not the cause is specifically mentioned in this Lease, the Party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

22.4 Entire Agreement; Counterparts. This Lease contains the entire agreement between the Parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by a written instrument executed by both Parties. Tenant and Landlord mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease. This Lease may be executed in any number of counterparts, including by fax signatures, each of which will constitute an original, but all of which will constitute one Lease.

22.5 Applicable Law. This Lease will be governed by, and construed in accordance with, the laws of the State of Oregon. Venue shall be in Clatsop County, Oregon.

22.6 Binding Effect; Authority The covenants and agreements contained in this Lease are binding on and inure to the benefit of Landlord, Tenant, and their respective successors and assigns. Each Party warrants that the below signatory is authorized to enter into this agreement and bind that Party.

22.7 Recordation of Lease. Tenant may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both Parties, be recorded in the public records of Clackamas County, Oregon. In such case, Tenant shall pay all recording costs.

22.8 Time Is of the Essence. Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

22.9 Relationship of Parties and Application of Laws. Nothing contained in this Lease is to be deemed or construed, either by the Parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Landlord and Tenant. At all times under this Agreement, the Parties are acting as individual entities and are not establishing a business partnership. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, employer and employee, partnership, joint venture, or any similar relationship, and each Party hereby specifically disclaims any such relationship. Employees or contractors providing services to each respective Party shall remain employees or contractors of the Party who retained such employee or contractor services. Each Party is wholly and individually responsible for its own employees and contractors. Each Party agrees to pay all wages and benefits (including but not limited to any required insurance and workers compensation), payroll tax, and to apply all laws, regulations, and policies relating to employment obligations. Each Party agrees to abide by all applicable local, state, and federal law.

IN WITNESS WHEREOF, Tenant and Landlord have caused this Lease to be executed by their duly authorized representatives as of the day and year first written above.

LANDLORD:

By: _____

Name: _____

Title: _____

TENANT:

By: _____

Name: _____

Title: _____

EXHIBIT A

The Property

That certain real property described as:

**Lots 13, 14, and 15, Block 36, First Extension of East Warrenton, in the City of Warrenton,
County of Clatsop and State of Oregon.**



AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Esther Moberg, City Manager
DATE: April 25, 2023
SUBJ: Right of First Refusal Lot near Kia dealership

SUMMARY

Since the 1980's, Kia held a lease with the City of Warrenton for three parcels in a lot in the dealership area. Kia has continued to lease (on a month-by-month basis) and to be good stewards of the City's leased property. The owners of this dealership have requested a right of first refusal if the City should decide to sell the leased land. It is the recommendation of the City Manager, based on location, access, and past business practices, to move forward with a right of first refusal to Vince and Patricia Williams, with the understanding that all legally binding practices including the Charter amendment regarding sale of assets and property of more than \$100,000 in 2014 dollars be considered.

RECOMMENDATION/SUGGESTED MOTION

I move to approve the right of first refusal clause with the Kia auto dealership that is owned by Vince and Patricia Williams.

ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

FISCAL IMPACT

N/A or...budgeted....or how funded

RIGHT OF FIRST REFUSAL

DATE: _____ (“Effective Date”)
 PARTIES City of Warrenton (“Owner”)
 Vincent J. Williams and Patricia Williams (“Grantee”)

RECITALS

A. Owner is the owner of a certain parcel of real property (the "Property") located in Clatsop County, Oregon, as described in Exhibit A attached to and made part of this Agreement.

B. Grantee is interested in acquiring the Property from Owner, but Owner is unwilling to sell it at the present time.

C. Owner is willing to grant to Grantee the right to purchase the Property if, as and when Owner elects to accept an offer to purchase the Property from a third party. Owner and Grantee desire to evidence their agreement regarding this purchase right.

AGREEMENT

Therefore, in consideration of Grantee's payment of \$_____ to Owner and other good and valuable consideration, the receipt and sufficiency of which is here acknowledged, Owner and Grantee agree as follows:

1. **Right of First Refusal.** Owner agrees not to sell, transfer, exchange, grant an option to purchase, or otherwise dispose of the Property or any part of, or interest in, the Property without first offering the Property to Grantee on the terms and conditions set forth in this Agreement. As used in this Agreement, the term “sell” includes a ground lease of the Property with primary and renewal terms of more than 15 years in the aggregate.

1.1 When Owner receives from a third party (the "Third-Party Offeror") a bona fide offer to purchase the Property, or a part of it or an interest in it, that Owner desires to accept, Owner must give Grantee written notice (the "Notice") of the price, terms, and conditions of the offer and deliver a copy of the executed contract evidencing the offer (the "Offer") to Grantee.

1.2 When Grantee receives the Notice and a copy of the Offer, Grantee will have the prior and preferential right to purchase the Property (or the part of or interest in the Property covered by the Offer, as the case may be) at the same price and on the same terms and conditions as are contained in the Offer, except that if Grantee exercises the right of first refusal by electing to purchase the Property then the closing of the transaction contemplated by the Offer will take place no earlier than 90 days after the date that Grantee elects to exercise the right of first refusal.

1.3 Grantee will have 15 days from the date that Grantee receives the Notice and a copy of the Offer to notify Owner whether Grantee elects to purchase the Property under the terms of the Offer. If Grantee elects to exercise its right to purchase the Property, then, in addition to giving Owner written notice of its election within the 15-day period, Grantee also must tender an amount equal to the earnest-money deposit, if any, specified in the Offer, which will be held and used in accordance with the terms of the Offer.

1.4 If Grantee fails to timely exercise its right to purchase the Property under the terms of this Agreement, then Owner will be entitled to sell the Property according to the terms of the Offer to the Third-Party Offeror, subject to the terms of section 1.5. If the sale

contemplated by the Offer is completed, this Agreement will terminate and be of no further force or effect.

1.5 If Grantee fails to timely exercise its right to purchase the Property under the terms of this Agreement, and for any reason Owner does not sell or convey the Property to the Third-Party Offeror on the terms contained in the Offer within six months of Grantee's election not to purchase, then Owner must resubmit the Offer as well as any other offer to Grantee before selling the Property, and such offers will be subject to Grantee's right of first refusal under this Agreement.

1.6 If Grantee elects to purchase the Property and any element of the consideration specified in the Offer is not cash or deferred purchase money (e.g., an exchange of property or performance of covenants other than the payment of money), then Grantee may elect to have the nonmonetary consideration appraised by an independent Member of the Appraisal Institute (MAI) appraiser and pay Owner the cash value of the nonmonetary consideration in lieu of the performance of the nonmonetary obligations specified in the Offer.

2. Term. The term of this Right of First Refusal commences on the date of this Agreement and terminates on the earlier to occur of (1) the expiration of 3 years after the Effective Date, or (2) the consummation of a sale of the Property to a third party after Grantee has elected not to exercise its right of first refusal. Grantee will cooperate in providing Owner with any instruments that Owner reasonably may require for the purpose of removing from the public record any cloud on title to the Property attributable in any manner to the grant or existence of this right of first refusal, in accordance with section 8.

3. Notices. All notices required or permitted to be given under this Agreement must be in writing and will be deemed given and received two business days after deposit in the United States mail, certified or registered form, postage prepaid, return receipt requested, addressed as follows:

To Owner: _____

To Grantee: _____

Notice given in any other manner will be effective when it is received by the party for whom it is intended. Either party may change its address by giving 10 days' notice to the other party.

4. Governing Law. This Agreement will be construed and enforced in accordance with the laws of the State of Oregon.

5. Restriction on Assignment. This right of first refusal is personal to Grantee, and Grantee may not assign or otherwise transfer Grantee's rights under this Agreement without the prior written consent of Owner.

6. Headings. The captions and headings used in this Agreement are for reference only and will not be construed to define or limit the scope or content of this Agreement.

7. Recording. On request of Grantee, Owner agrees to join in executing a memorandum of this Agreement, to be filed for record in the official records of Clatsop County, Oregon, to give notice to the public of the rights of Grantee under this Agreement. Grantee will pay the cost of recording the memorandum. The memorandum must note the date that this Agreement expires, and Grantee will join in executing a termination agreement when this

Agreement has expired or terminated, failing which, Owner may execute the termination agreement on behalf of Grantee.

8. Entire Agreement. This Agreement contains the final and entire understanding between Owner and Grantee with respect to its subject matter and is intended to be an integration of all prior negotiations and understandings. Owner and Grantee will not be bound by any terms, conditions, statements, warranties, or representations not contained in this Agreement. No change or modification of this Agreement will be valid unless it is in writing and is signed by both Owner and Grantee.

9. Waiver. A failure by Owner or Grantee to enforce any right under this Agreement will not be deemed to be a waiver of that right or of any other right.

10. Real Estate Commission. Owner and Grantee each agree to pay any commission or finder's fees that may be due on account of this transaction to any broker or finder employed by it and to indemnify the other against any claims for commissions or fees asserted by any broker claiming by, through, or under the indemnifying party.

11. Counterparts; Pronouns. This Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement and will be effective when one or more counterparts have been signed and delivered by Owner and Grantee. With respect to any pronouns used herein, each gender used includes the other gender, the singular, and the plural, as the context may require.

12. Time Is of the Essence. Time is of the essence regarding this Agreement.

13. Authority to Execute. Each person executing this Agreement on behalf of Owner and Grantee, respectively, warrants his or her authority to do so.

14. Statutory Disclaimer. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, ORS 195.301 AND ORS 195.305 TO 195.336 AND OREGON LAWS 2007, CHAPTER 424, SECTIONS 5 TO 11, OREGON LAWS 2009, CHAPTER 855, SECTIONS 2 TO 9 AND 17, AND OREGON LAWS 2010, CHAPTER 8, SECTIONS 2 TO 7. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR ORS 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, ORS 195.301 AND ORS 195.305 TO 195.336 AND OREGON LAWS 2007, CHAPTER 424, SECTIONS 5 TO 11, OREGON LAWS 2009, CHAPTER 855, SECTIONS 2 TO 9 AND 17, OREGON LAWS 2010, CHAPTER 8, SECTIONS 2 TO 7.

15. Warranties. Owner warrants and represents to Grantee that (1) Owner owns fee title to the Property, (2) Owner has the authority to execute this Agreement and executing it does not violate any agreement to which Owner is a party or any covenant by which the Property is

bound, and (3) Owner has no knowledge of any condition affecting the Property that would materially and adversely affect the ability of Grantee to use the Property for _____ purposes, except as disclosed to Grantee in writing.

16. Consents. The parties agree to act in good faith and with fair dealing with one another in the execution, performance, and implementation of the terms and provisions of this Agreement. Whenever the consent, approval, or other action of a party is required under any provision of this Agreement, such consent, approval, or other action will not be unreasonably withheld, delayed, or conditioned by the party unless the provision in question expressly authorizes the party to withhold or deny consent or approval or to decline to take action in accordance with a different standard, in which case the consent or approval or the decision to not take action may be withheld, delayed, or conditioned in accordance with the different standard. Any provision indicating that consent is not to be unreasonably withheld will be interpreted to mean that consent will not be unreasonably withheld, delayed, or conditioned.

Executed as of the day and year first above written.

OWNER:

/s/ _____
By: _____
Name: _____
Title: _____

GRANTEE:

/s/ _____
By: _____
Name: _____
Title: _____

Attachments:

Exhibit A—Description of Property

EXHIBIT A

That certain real property described as:

**Lots 13, 14, and 15, Block 36, First Extension of East Warrenton, in the City of Warrenton,
County of Clatsop and State of Oregon.**



AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: City Manager, Esther Moberg
DATE: April 25, 2023
SUBJ: Request to close City Hall offices for Carpet Installation

SUMMARY

We have been working on installation of new carpet in the administration, finance, building, and planning departments. In order to do this, staff will have to be out of the office spaces May 31, 2023 through June 5, 2023. We will do our best to keep staff working remotely and also set up a possible staff person in the hallway to accept some payments (If we can make this work).

RECOMMENDATION/SUGGESTED MOTION

I move to approve closure of City Hall offices May 31 through June 5, 2023 in order to remove old carpet and install new carpet.

ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

FISCAL IMPACT

The carpet install was budgeted for this fiscal year.

Approved by City Manager: _____

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

Dawne Shaw

From: Esther Moberg
Sent: Tuesday, April 18, 2023 11:04 AM
To: Dawne Shaw
Subject: FW: Commendation

Follow Up Flag: Follow up
Flag Status: Completed

From: Mark Baldwin <mbaldwin@ci.warrenton.or.us>
Sent: Tuesday, April 18, 2023 11:00 AM
To: Esther Moberg <emoberg@ci.warrenton.or.us>; Henry A. Balensifer III <hbalensifer@ci.warrenton.or.us>; Tom Dyer <tdyer@ci.warrenton.or.us>; Gerald Poe <gpoe@ci.warrenton.or.us>; Paul Mitchell <pmitchell@ci.warrenton.or.us>
Subject: Fwd: Commendation

Get [Outlook for iOS](#)

From: Tina Stacy <tina.stacy2021@gmail.com>
Sent: Tuesday, April 18, 2023 8:16:16 AM
To: Mark Baldwin <mbaldwin@ci.warrenton.or.us>
Subject: Re: Commendation

Mark,

Not a problem at all. As a clinical mental health professional working with children and families I tend to hear only narratives of abuse which can result in a person becoming cynical towards the world in general. Officer McCoy restored my faith in humanity in general. Truly I cannot stress this enough. You all are doing something right out there as your officers uphold the statement, "to protect and serve." In a world where everything has become politicized, showing humanness and an ability to empathize should not be one of them. Thank you for getting back to me, again the representation of amazing people in Warrenton is clearly present.

Have a wonderful day!

With the greatest respect,

Tina Stacy

Sent from my iPhone

On Apr 18, 2023, at 7:29 AM, Mark Baldwin <mbaldwin@ci.warrenton.or.us> wrote:

Good morning Tina,

I'm sorry you had to go through this, and I hope that you are alright.

Thank you for the commendation of officer McCoy. He is a great officer and the definition of what we want our officers to be. Thank you for reaching out to me and thank you for the kind words. All too often we only hear the bad, and hearing the good makes what our officers do worth the extra effort.

Thank you
Commissioner Mark Baldwin

Get [Outlook for iOS](#)

From: Tina Stacy <tina.stacy2021@gmail.com>
Sent: Sunday, April 16, 2023 11:58:48 PM
To: Mark Baldwin <mbaldwin@ci.warrenton.or.us>
Subject: Commendation

Good evening, Mr. Baldwin,

I'm reaching out to you regarding an officer for Warrenton law enforcement. This afternoon I had the unfortunate experience of being in a car accident in the natural grocers parking lot. Officer McCoy responded to the accident, I was so impressed by him in general. He is one of the kindest and most supportive persons I have encountered in quite some time. He made sure that all paperwork needed was completed and provided words of support during the entire encounter. Naturally, I was pretty upset, the incident was awful and odd, needless to say I was not at my best. Officer McCoy treated me with kindness, dignity, and respect making me feel heard and supported. He restored my faith in people in general, this is no feat due to my career path in working with abused and neglected youth. Too often people focus on all of the negative things in the world, myself included. So today, I wanted to focus on the strength of others, specifically related to my encounter with officer McCoy and thank him and Warrenton PD for being so quick to arrive and providing quality service.

With the greatest respect,

Tina Stacy

Sent from my iPhone