

# CITY of CASCADE LOCKS *AGENDA*

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**CITY COUNCIL MEETING, Monday, January 28, 2013, 7:00 PM, CITY HALL**

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**Purpose:** The City Council meets twice a month to conduct city business, make decisions and set policy and direction for the city organization and community.

1. **Call to Order/Pledge of Allegiance/Roll Call.**
2. **Additions or amendments to the Agenda.** (The Mayor or Presiding Officer may add items to the agenda after it is printed and distributed only when required by business necessity and only after an explanation has been given. The addition of agenda items after the agenda has been printed is otherwise discouraged).
3. **Adoption of Consent Agenda. None.**
4. **Public Hearings. None.**
5. **Action Items:**
  - a. **Adopt Plan for Filling Council Vacancy.**
6. **Appearance of Interested Citizens to Share a Variety of Perspectives on Issues Facing Our Community.** (Comments on matters not on the agenda or previously discussed)
7. **Reports and Presentations.**
  - a. **City Committees.**
  - b. **Final ICA Koch Report (handout).**
8. **Mayor and City Council Comments.**
9. **Other matters.**
10. **Executive Session as may be required.**
11. **Adjournment.**

**The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities, should be made at least 48 hours in advance of the meeting by contacting the City of Cascade Locks office at 541-374-8484.**



## STAFF REPORT

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**Date Prepared:** January 7, 2013

**For City Council meeting of January 28, 2013**

**TO:** Hon. Mayor and City Council Members

**PREPARED BY:** Paul Koch, ICA

**APPROVED BY:** N/A

**SUBJECT:** Establishment of a City Council approved process to fill vacancies on City Council

**SYNOPSIS:** Upon formal seating of the new Mayor and City Council, there will be one vacancy on City Council. The City Council position previously held by Mayor Tom Cramblett becomes vacant upon his swearing in as Mayor. There are two years yet to serve on the vacant seat on the City Council. It is the responsibility of City Council to establish such system that the City Council determines and interprets from the City Charter. An election is not possible because of the Charter requirement that the remaining members of City Council select or appoint someone to fill the vacancy. Such an effort would be a stretch and would subject the Council and City to a legal challenge.

This issue comes before City Council for formal action at this time.

**CITY COUNCIL OPTIONS:** City Council has the following options.

1. Do nothing and operate with the vacancy in place.
2. Establish an application process, then interview and select a person to fill the vacancy.
3. Create a City Council determined process to fill the vacancy.
4. Use an advisory vote process where citizens either by e-mail or at City Hall tell Council of their preference.
5. Utilize a coin toss or draw a straw to select someone to fill the vacancy.
6. Conduct a straw poll or advisory vote in the community.
7. Appoint the next highest vote getter from the last election.

**RECOMMENDATION:** That City Council, by motion, establish the formal process for the selection of a person to fill the vacant 2 year seat on the City Council. It is recommended that Council use the current process of advertising the vacancy for 2 weeks, take applications, interview everyone and then make a selection and appoint.

**Legal Review and Opinion:** The responsibility for interpreting the City Charter belongs to the City Council. The City Charter in Chapter 30 (page 6) states that Council vacancies shall be filled by a majority of the remaining members of the Council. The City Attorney has prepared a legal analysis which is attached to this staff report. A majority vote will be needed to decide on any of the many options available to City Council.

**Finance Review and Status:** There are no financial implications to this action except for staff time. An election, if used to fill the vacancy could cost the City depending on the time of the election.

**BACKGROUND INFORMATION:**

1. A copy of the pertinent pages of the City Charter are attached to this report for City Council information. Page 6, Section 30 deals with the filling of City Council seat vacancies.
2. In the fall of 2011, City Council developed and utilized an open transparent application process and interviews before selecting individuals to fill vacancies on the City Council. A copy of the form, options and guidelines used in 2011 is attached for City Council information.
3. The City Attorneys legal analysis is attached for City Council information.
4. At the time of writing this report, the City had not yet received the information from Hood River County dealing with the cost and election schedule.

### **LEGAL ANALYSIS:**

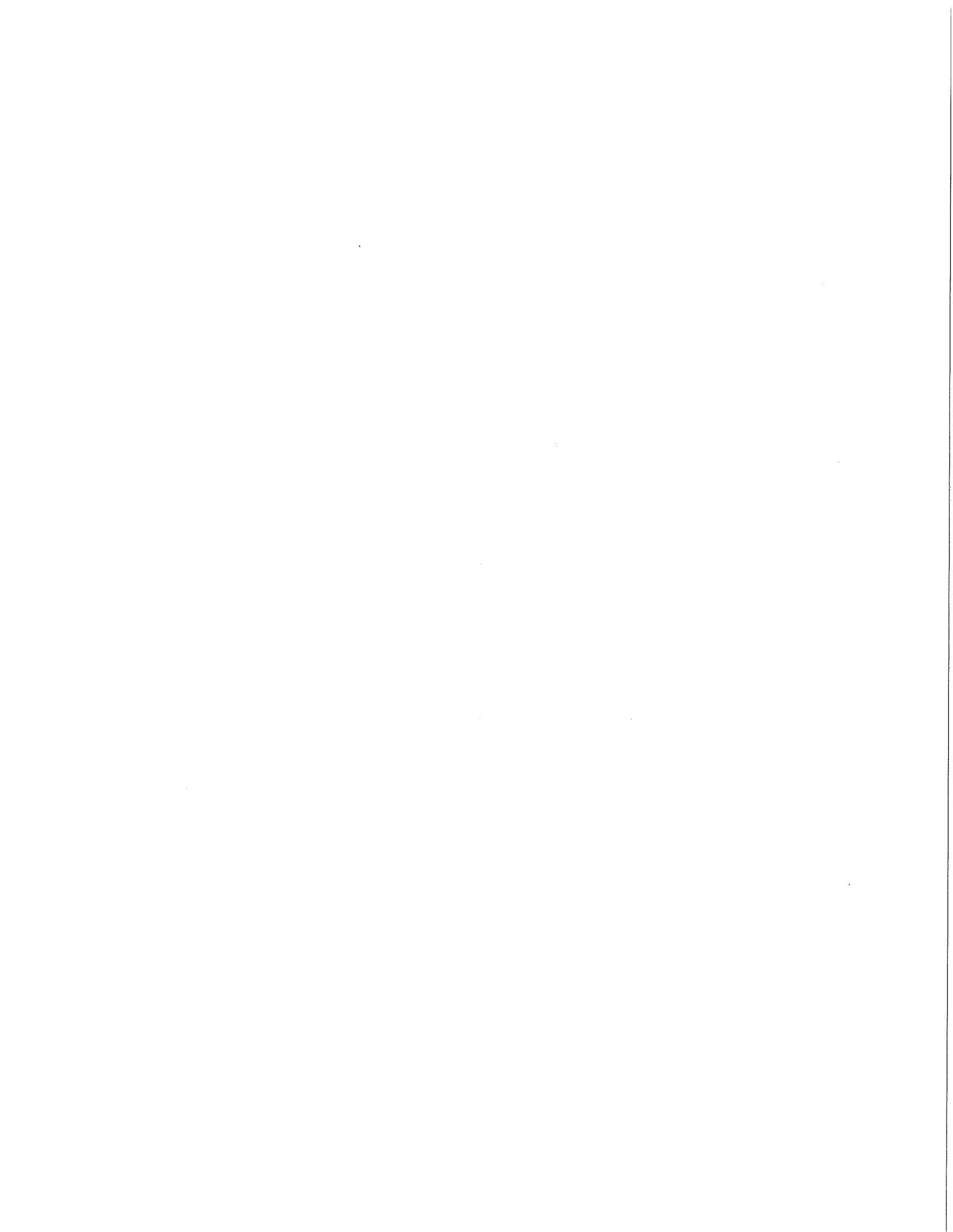
Section 30 of the City's Charter specifies how Council vacancies are filled. That section specifies that vacancies are filled by a majority of the Council. Following the 2011 recall, the Council adopted a process under which the Council invited applications from interested citizen, interviewed the applicants, and then appointed the successful candidates by majority vote.

In this case, there is only one vacancy to be filled, that of the seat vacated by Mayor Tom Cramblett. That leaves six members of the Council who will interview and vote. In the event the Council is unable to establish a majority (4 out of 6) in favor of one of the candidates, the Council will have a number of options available to it. A majority vote will be needed to decide to pursue any of the following, or other, options.

One idea considered was to defer the matter to a vote of the people in the May election. This option is plausible under the City's Charter, but requires stretching the rules of interpretation to an extent that might not withstand a legal challenge. If the two sentences are read apart from each other, this option is supported because the second sentence could be read to apply only to a process the Council chooses that involves direct appointment. However, the rules of construction generally require the two sentences to be read together. If that is done, the second sentence arguably makes it clear that the first sentence is intended to mean that the substantive appointment must be made by a vote of Council. Specifically, the words "appointee" and the reference to the term beginning immediately upon appointment make it more difficult to argue that the first sentence was intended to allow the Council to either (1) set out a process by majority vote whereby someone is appointed by operation of that process, and that process alone; or (2) by a substantive majority vote of the Council.

Nevertheless, there are other options that could provide the Council with similar information regarding the will of the citizens. These are set out in options 3 and 4 below. These options are by no means the only ones and Council could create other options.

1. Extend the process timeline and invite more applicants and hold more interviews.
2. Choose a process whereby the appointee would be chosen by a coin toss, or straws, etc. Because the process is being determined by a majority of the Council and Council will appoint the winner of the coin toss, etc., this method of determining who will be seated would comply with Section 30 of the Charter.
3. Conduct a "straw poll" at City Hall by having citizens come in or vote their preference electronically.
4. Send an advisory measure to the ballot for the May election. The measure would ask the question: Should the City Council appoint John Doe [instead of Jane Smith] to fill the position vacated by Tom Cramblett? The cost to the City for adding a measure to the ballot would be \$ \_\_\_\_\_, The deadline to file the measure would be \_\_\_\_\_, 2013. Thus, the Council would need to have completed the interview process at some time prior to this date to know which candidates the Council is unable to choose between. This process also assumes there are two or one potential candidates.



City of Cascade Locks, Oregon

DATE & TIME RECEIVED: \_\_\_\_\_

**Application for City Boards, Commissions, Task Forces and Committees**

**(Check one below)**

**Budget Committee** \_\_\_\_\_ **Planning Commission** \_\_\_\_\_ **Other:** \_\_\_\_\_

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NAME: \_\_\_\_\_ HOME PHONE: \_\_\_\_\_:

HOME ADDRESS: \_\_\_\_\_ CELL PHONE: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

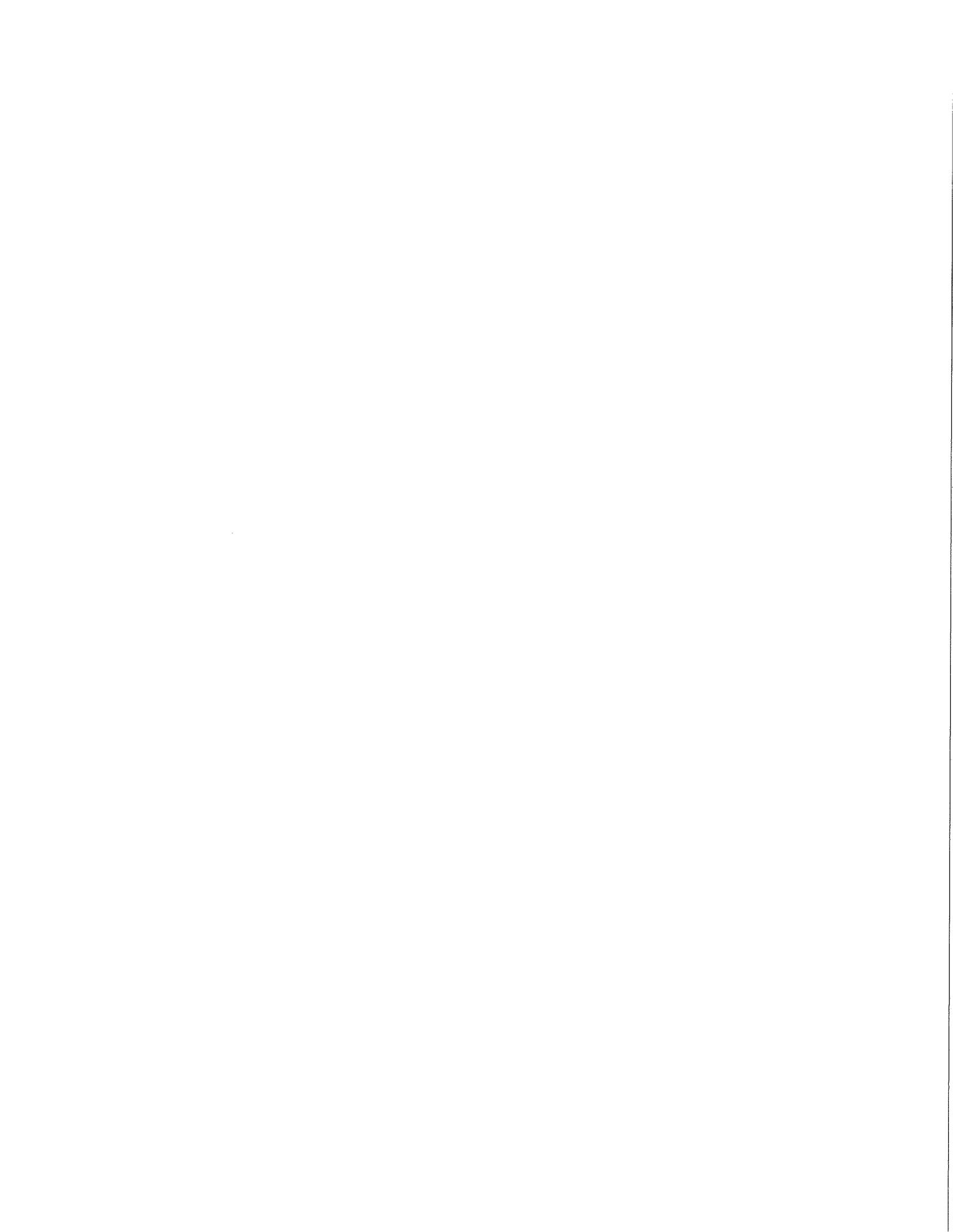
Do you live within the Cascade Locks city limits? Yes \_\_\_ No \_\_\_

How long have you lived in the City? \_\_\_\_\_

1. Why are you interested in serving?
2. Do you feel that you can meet the schedule required by the City Council?
3. What experiences have you had with City committees, boards or commissions?
4. What special skills or interests do you think you bring to this effort?

APPLICANTS SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**Thank you. We appreciate your willingness to serve .**



## Returning City Council to full membership : Options (October 3, 2011)

### SOME OPTIONS:

1. Traditionally in Cascade Locks: Review past elections and identify candidates who are interested, interview them and make appointments.
2. Seek letters of interest, review the letters, existing council members interview applicants and make appointments.
3. Create three committees made up of local community members. Have the committees review the applicants and make recommendations of 1-2 per committee for City Council to interview and appoint.
4. Create an application form and have interested parties apply. Review the applications and have City Council interview those who are interested in serving. Make a selection from this process.
5. Proceed using one of the options above, but select only a 4<sup>th</sup> member, then have the four interview the 5<sup>th</sup>. Select and appoint the 5<sup>th</sup>, then have the five interview for the 6<sup>th</sup>. etc. until all seven positions are filled.

(Note: These options may be used singularly or combined

### A PROCESS:

The critical factors in the process of selecting new City Council members in this situation are openness and transparency. Here is a possible pathway for City Council to utilize:

- Step 1:** Select the process desired to fill the vacancies.
- Step 2:** Let the community know what the process will be. News releases, TV and word of mouth.
- Step 3:** Seek interested parties to apply either through letter or application. Allow one week for people to apply. (A formal application form will need to be developed and applicants advised that they need not and should not contact existing Council members during the process in the interests of openness and fairness)
- Step 4:** Review the applications and select those to be interviewed in an open meeting by City Council. (This can be done in one sitting with the three Council members present)

- Step 5:** Conduct interviews. (Interview selected candidates in an open to the public meeting)
- Step 6:** Make a decision and appoint. (This would be at a regular or special City Council meeting and requires a motion and vote)
- Step 7:** Swear in new members. (This can be done at the very beginning of the first City Council meeting after the appointments.)

This process can move as fast as City Council desires. Plan on between 2 and 4 weeks to complete the process.

### **GUIDELINES FOR SELECTION:**

Possible Guidelines for Selection: Most communities have some idea of the needs of the community and the skills and interests necessary to achieve the best possible results for the whole community. Following are some simple guidelines that may be used to help select the best possible candidates.

1. Positive interest in the betterment of the community.
2. Experience and involvement in community events.
3. Willingness to give the time to do the job.
4. Willingness to work as a team, listen and respect the ideas of others.
5. Ability to make a decision and to accept the will of the majority of your fellow councilors.

**City Council Member Responsibilities:** Ability to become knowledgeable on a wide variety of issues affecting the City. A willingness to consider differing opinions in arriving at a position that will be in the best interests of the community as a whole. Understanding of how the city operates through its City Charter and how the Council functions. A willingness to participate in workshops and seminars as a City Council member. Ability to accept public criticism and a sense of humor are important. A willingness to meet at least twice per month and at other times as needed to conduct City business.