



CURRY COUNTY BOARD OF COMMISSIONERS

WORKSHOP

Wednesday, November 8, 2017 – 9:00 AM
Commissioners' Hearing Room, Courthouse Annex
94235 Moore Street, Gold Beach, Oregon

www.co.curry.or.us

AGENDA

- 1. Call To Order & Pledge Of Allegiance**
- 2. Adoption/Amendment Of The Agenda (5 minutes)**
- 3. HB 3435 (House Bill) Loaning Road Funds (60 minutes) Packet Page 2**
- 4. Public Records Request Policy - Possible Revision (35 minutes) Packet Page 10**
- 5. Adjourn**

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CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 01-13-2017

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

AGENDA ITEM TITLE: HB 3435 - Loaning Road Funds

AGENDA DATE^a: 11/08 **DEPARTMENT:** Admin **TIME NEEDED:** 60 minutes

^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period)

CONTACT PERSON: John Hitt **PHONE/EXT:** 3287 **TODAY'S DATE:** 11/02

BRIEF BACKGROUND OR NOTE^b: Memo Attached

^bIndicate if more than one copy to be signed

FILES ATTACHED:

SUBMISSION TYPE: Discussion/Decision

(1)John Hitt Memo

(2)HB 3435

Are there originals in route (paper copies with pre-existing signatures) Yes No

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
3. If Land Transaction, filed with the clerk? Yes No N/A

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

Due date to send: / /

Email:

***Note: Most signed documents are filed/recorded with the Clerk per standard process.**

PART II – COUNTY CLERK REVIEW

EVALUATION CRITERIA:

CLERK ASSESSMENT: Does this agenda item meet filing/recording standards? Yes No N/A

(If No, brief detail)

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

1. Confirmed Submitting Department's finance-related responses Yes No
Comment:
2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
3. If job description, Salary Committee reviewed: Yes No N/A
4. If hire order requires an UA, is it approved? Yes No Pending N/A

PART IV – COUNTY COUNSEL REVIEW

AGENDA ASSIGNMENT TYPE: Staff Report

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No

(If Yes, brief detail) Might have legal impact depending on BOC direction to staff

PART V – BOARD OF COMMISSIONER REVIEW/COMMENT

LIAISON COMMISSIONER AGREES TO ADD TO AGENDA:

Commissioner Thomas Huxley Yes No

Commissioner Sue Gold Yes No

Commissioner Court Boice Yes No

Not applicable to Sheriff's Department since they do not have a liaison

INTEROFFICE MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JOHN HITT, INTERIM ADMINISTRATOR

SUBJECT: ROAD FUND LOAN DISCUSSION

DATE: (FOR) NOV. 8, 2017

BACKGROUND: At the Nov. 1st BOC meeting there was discussion about a possible voter referendum (initiative) to prohibit Road Fund Loans apart from a future vote approving one or more such loans. This discussion was triggered by House Bill 3435 (copy attached) that recently passed the state legislature.

RELEVANT FACTS:

1. House Bill 3435 grants to the local governing body the authority to lend to other government agencies (port districts, cities, school districts, fire districts, etc.) "...moneys from federal sources in the county road fund of Curry, Klamath and Yamhill Counties...." The only limitation on such lending is it cannot exceed the debt service abilities of the receiving district and cannot exceed 20 years.
2. Curry county currently has approximately \$ \$33 million in its road fund earning a blended rate of interest of approximately 1.46%.
3. There are other Curry County governmental agencies that either are in need of long-term funding or have existing long-term loans (bonds) at a relatively high rate of interest.
4. Curry County could provide some form of 'debt relief' to those agencies in need of funds, or with existing high interest indebtedness, and earn a higher rate of return than we currently earn. Any excess (increased) earnings could be allocated to the county's General Fund.
5. There is some legal question as to the efficacy of any initiative (if approved by the voters) at binding future BOC members regarding Road Fund loans

OPTIONS:

- 1, Direct county legal staff to prepare a ballot title that if approved by the BOC, could be set for the March 2017 election, which if successful, could demonstrate public interest in restricting or

prohibiting future Road Fund loans. The deadline for submitting a ballot measure, including required advertising would be about Feb. 16, 2018. Inclusion of a ballot measure for the May 15, 2018 would not result in any additional or unbudgeted costs to the county.

2. Take no action.

3. Direct staff to prepare an ordinance (for consideration at a BOC General Meeting) that would define specific requirements and limitations for lending Road Funds. These could include limitations as to the amount (or %) of Road Funds available to lend, either per loan and/or in aggregate, minimum lending rates, maximum loan terms, minimum credit and collateral requirements for borrowers, and other factors. Such an ordinance, if approved by the BOC, could then be referred to the voters for approval or rejection.

4. Direct staff to contact other county agencies, and other counties, to determine the level of interest in seeking a Road Fund Loan, and what loan terms they might like to have, as well as seeing the response to HB 3435 being taken by the other counties impacted by this bill. Such research would take a fair bit of staff time and likely could not be completed until early next year.

RECOMMENDATION: Have an open and thoughtful discussion. This is an important matter. I generally favor those options that provide the maximum flexibility while still protecting the legitimate public interest. It may be best to not proceed with any particular action without more time to contemplate this somewhat complex matter and obtain greater input from the public and our sister governmental agencies.

**Enrolled
House Bill 3435**

Sponsored by Representatives SMITH DB, RESCHKE; Representative WILSON

CHAPTER

AN ACT

Relating to county road fund moneys; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Notwithstanding ORS 294.060, 294.468 and 368.705, moneys from federal sources in the county road fund of Curry County, Klamath County or Yamhill County may be loaned to:

- (a) Any taxing district located within the county;
- (b) Another county; or
- (c) Any taxing district located in another county.

(2) The amount of the loan may not exceed the lesser of:

(a) The amount of operating taxes estimated to be collected by the taxing district or the county to which the moneys are to be loaned, plus interest, for a period of 20 consecutive years; or

(b) The estimated annual debt service amounts that can reasonably be estimated to be available for the term of the loan to the taxing district or the county to which the moneys are to be loaned, after subtracting any other financial or legal obligations of the borrower taxing district or county.

(3)(a) Moneys may be loaned under this section only pursuant to a legally binding inter-governmental agreement or loan agreement entered into by the governing bodies of the borrower taxing district or the county and the lender county.

(b) The intergovernmental agreement or loan agreement must contain provisions that:

(A) Fix the principal amount of the loan and state the method of determining the rate of interest. The rate of interest may not be less than the average rate of return earned over the immediately preceding 12-month period by moneys of the lender county placed in the investment pool as defined in ORS 294.805.

(B) Fix the term of the loan and the schedule of the payments of principal and interest.

(C) Pledge the operating tax revenues of the borrower taxing district or county as security for repayment of the loan, plus interest.

(D) Identify the purpose for which the taxing district or the county is borrowing the moneys.

(E) Establish remedies in favor of the lender county if the borrower taxing district or county is unable to meet the annual debt service obligations.

(4) The governing bodies of the borrower taxing district or county and the lender county shall account for the loan and the repayment obligation, including interest, in their annual budgets for the term of the loan.

Conditions

(5) A county that makes a loan under this section shall disclose the loan to the Oregon Municipal Debt Advisory Commission.

(6) Moneys from state and local sources that are subject to Article IX, section 3a, of the Oregon Constitution, may not be loaned under this section.

SECTION 2. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House June 21, 2017

Received by Governor:

Repassed by House July 6, 2017

.....M.,....., 2017

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2017

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate July 4, 2017

Filed in Office of Secretary of State:

.....
Peter Courtney, President of Senate

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State

John HuttI

From: Rep Smith D <Rep.DavidBrockSmith@oregonlegislature.gov>
Sent: Tuesday, October 31, 2017 9:23 PM
To: Court Boice
Cc: John HuttI; John Hitt; Megson Shelia
Subject: Fwd: HB 3435

Gentlemen,

The email string below is in reference to item 9 (B) on your Board of Commissioners Agenda tomorrow, November 1st, 2017. I was perplexed by the "sample draft ballot title" language that referenced HB 3435 did not define who has the authority to administer the intergovernmental agreement or loan agreement. The law clearly defines that the Board of Commissioners is the only authority under the law, as I drafted and passed the legislation. Please see below for my inquiry to my Legislative Counsel on the matter and his response confirming this.

Legislative Counsel works on behalf of the State Legislators, in the future, please do not hesitate to reach out to me for any future clarification on State Legislation and I will be happy to assist. Thank you and have a great day.

Best,

David Brock Smith
Oregon State Representative
House District 1
Curry, Coos, Douglas & Josephine Counties
Website: <http://www.oregonlegislature.gov/smithd>



Begin forwarded message:

From: Johnson Dexter <Dexter.Johnson@oregonlegislature.gov>
Date: October 31, 2017 at 6:14:44 PM PDT
To: Rep Smith D <Rep.DavidBrockSmith@oregonlegislature.gov>
Subject: RE: HB 3435

Rep. Smith:

The answer to your question is that under HB 3435 only the Curry County Board of County Commissioners (BCC) has authority to enter into an intergovernmental agreement or loan agreement that loans moneys from the Curry County road fund as contemplated in HB 3435. The bill uses the term "governing bod[y of] ...the lender county" in section 1 (3) and (4) of HB 3435. The best evidence of the meaning of a statute is the text of a statute, and words of common understanding are given their plain, ordinary meaning when examining the text of the statute at issue. *State v. Gaines*, 346 Or. 160, 174 (2009).

Per the Curry County BCC website, the "commissioners serve as the Executive Branch and perform legislative and quasi-judicial functions of the County." That describes a governing body. Nothing prevents the BCC from asking the opinion of voters concerning whether an intergovernmental agreement or loan agreement to lend county road funds is a good idea, but nothing in HB 3435 or other

law requires the BCC to do so, nor would an affirmative vote by voters legally compel the BCC to enter into such an agreement. Only the BCC, in its executive capacity, possesses the capacity to negotiate and execute the agreements contemplated in HB 3435.

I hope this answers your questions.

Best regards,

Dexter

Dexter A. Johnson
Legislative Counsel
S-101 State Capitol
900 Court St. NE
Salem, OR 97301
503.986.1243
dexter.johnson@oregonlegislature.gov

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From: Rep Smith D
Sent: Tuesday, October 31, 2017 12:35 PM
To: Johnson Dexter <Dexter.Johnson@oregonlegislature.gov>
Subject: HB 3435

Good Afternoon Counselor Johnson,

As you are aware, we passed HB 3435; "The Road Fund Loan Bill" in the '17 session, which authorizes the Board of Commissioners in Curry, Klamath and Yamhill Counties to enter into intergovernmental agreements to loan non-state County Road Dollars to other taxing districts within the State. There are also many restrictions within the bill as to the loan amount, payment, etc., and securities of the loaned dollars with the taxing district dollars. Below is an agenda item that the Curry County Board of Commissioners will be discussing in their meeting tomorrow.

Sample Draft Ballot Title for Referral

Requires vote of the citizens of Curry County to approve loans of County Road Funds to other agency.

Sample Draft Explanatory Statement

The 2017 legislature authorized certain local governments including Curry County to lend restricted road funds to other agencies for non-road fund purposes. The powers of the County are vested in the Board of Commissioners or the voters. The state law allowing loans of restricted county road funds did not say whether the Board of Commissioners or the voters were required to approve the loan. This measure would require the voters of Curry County to approve any loan from County Road funds to

another agency before any loan was made. The numbers needed to approve any road fund loan would be the same as to approve any local tax measure.

My question is:

as Curry is a General Law County, HB 3435 is clear in that the Board of Commissioners are the only authority that can enter into the intergovernmental agreement or loan agreement as the "County"?

Which is outlined in:

Section 1 (3)(a) Moneys may be loaned under this section only pursuant to a legally binding inter-governmental agreement or loan agreement entered into by the governing bodies of the borrower taxing district or the county and the lender county.

Furthermore, it would be impossible for a General Law County to have the voters execute such an intergovernmental agreement or loan agreement, as law does not allow for such and mandates the Board of Commissioners must enter into said agreements. This however does not prohibit the County from seeking an "advisory" question of the people for any such loan allowed under HB 3435, nor does it prohibit the drafting/passing of a county ordinance requiring an advisory question of the people for any such loan allowed under HB 3435.

As an opinion of mine; as the drafter of HB 3435, the purpose of HB 3435 is to generate more dollars for the County Road Fund through interest payments above what is currently generated through the LGIP, while investing into local community infrastructure and services for our communities and their residents, securing the loaned dollars and resting the authority to do so in the competent and duly elected Board of Commissioners. An opinion for Curry County would be to generate more Road Fund Dollars in interest and dedicating those increased interest dollars; above the rate garnered in the LGIP, and dedicate them to Sheriff's Patrol, as allowed through other State Legislation.

Thank you in advance for taking the time to look into my question, Counselor Johnson. I appreciate your time and effort into my inquiry.

Best,

David Brock Smith
Oregon State Representative
House District 1
Curry, Coos, Douglas & Josephine Counties
Website: <http://www.oregonlegislature.gov/smithd>



CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 01-13-2017

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

AGENDA ITEM TITLE: Public Records Policy Discussion

AGENDA DATE^a: 11/08 **DEPARTMENT:** Admin. **TIME NEEDED:** 35 minutes

^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period)

CONTACT PERSON: John Hitt **PHONE/EXT:** 3287 **TODAY'S DATE:** 11/02

BRIEF BACKGROUND OR NOTE^b: See attached memo from John Hitt

^bIndicate if more than one copy to be signed

FILES ATTACHED:

SUBMISSION TYPE: Discussion/Decision

- (1)Memo
- (2)Proposed New Policy
- (3) Existing Policy

Are there originals in route (paper copies with pre-existing signatures) Yes No

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail) Yes, if a new policy adopted it would impact, to a small degree, all depts.
3. If Land Transaction, filed with the clerk? Yes No N/A

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

- File with County Clerk
- Send Printed Copy to:
- Email a Digital Copy to:
- Other

Name:
Address:
City/State/Zip:

Phone:
Email:

Due date to send: / /

^cNote: Most signed documents are filed/recorded with the Clerk per standard process.

PART II – COUNTY CLERK REVIEW

EVALUATION CRITERIA:

CLERK ASSESSMENT: Does this agenda item meet filing/recording standards? Yes No N/A
(If No, brief detail)

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

1. Confirmed Submitting Department's finance-related responses Yes No
Comment:
2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
3. If job description, Salary Committee reviewed: Yes No N/A
4. If hire order requires an UA, is it approved? Yes No Pending N/A

PART IV – COUNTY COUNSEL REVIEW

AGENDA ASSIGNMENT TYPE: Staff Report

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail) potential revision of current county policy

PART V – BOARD OF COMMISSIONER REVIEW/COMMENT

LIAISON COMMISSIONER AGREES TO ADD TO AGENDA:

- Commissioner Thomas Huxley Yes No
- Commissioner Sue Gold Yes No
- Commissioner Court Boice Yes No
- Not applicable to Sheriff's Department since they do not have a liaison

INTEROFFICE MEMORANDUM

TO: BOARD OF COMMISSIONERS

FROM: JOHN HITT – INTERIM COUNTY ADMINISTRATOR

SUBJECT: PROPOSED REVISION OF PUBLIC RECORDS REQUEST POLICY

DATE: (FOR) NOVEMBER 8, 2017

BACKGROUND: The County adopted its current public records policy in January of 2012. This policy divides or separates the responsibility of responding to public records requests among 21 different public records custodians.

RELEVANT FACTS:

1. The current policy makes no mention of and has no role for the County Administrator
2. The current policy assigns the responsibility of finding, charging and delivering public request documents to a wide variety of individuals who, for the most part, have received no training regarding the law or current county policy
3. The current policy does not require a final County Counsel review prior to the release of public records
4. The current policy leaves the county with greater likelihood of inappropriate/unauthorized release of public records and less ability to track and respond to public records request in a timely manner.

OPTIONS:

1. Leave current policy unchanged
2. Direct staff to bring proposed revised policy (attached) back to a future General Meeting, with or without changes.
3. Direct staff to bring back a substantially different policy, based on your workshop discussion

RECOMMENDATION: Engage in frank and open discussions about the best way to implement a complex state public records law by a clear and concise county administrative policy. Option 2, will, I believe, best achieve this goal

**Curry County
Public Records Request
Policy and Procedure**

I. Summary and Purpose

Oregon Public Records Law (ORS 192.410-192.505) grants the public the right to inspect and copy most public records maintained by Curry County (the "County"). A public record includes any writing that is prepared, owned, used or retained by the County and contains information relating to the conduct of the County's business. Certain records maintained by the County are not public records or may be exempt from public disclosure. Additionally, federal and state laws require the County to keep certain records confidential. This policy establishes an orderly and consistent process for responding to public records requests and calculating the fees for responding to such requests.

It is important to note that there is a distinction under the law between public records and public information requests. Oregon Public Records Law does not impose a duty on the County to create public records in response to an information request, or to extract data in a manner requested by the public.

II. Policy

It is the policy of the County to ensure that all requests for public records are handled consistently with applicable public records laws. The County shall make all public records, except those that are confidential or exempt from disclosure, available on request for inspection or copying during usual business hours without unreasonable delay.

This policy applies to all County departments and employees.

III. Public Records Custodian

The County Administrator will designate an overall County Public Records Custodian. Each department shall have its own "Public Records Manager." The County Public Records Custodian shall be responsible for interfacing with the public on all public records request matters, and for coordinating with those responsible for maintaining the public records in each department as well as coordinating and assisting staff implementation of this policy. The Public Records Custodian shall keep and maintain a log of all public records requests which shall include, as a minimum, the date and person submitting the request, along with contact information, a summary of the documents requested, the department that will process the record, and anticipated date of delivery of the requested records.

IV. Written Requests

All requests to inspect or copy public records shall be in writing on the form established by the county (Exhibit A) (or equivalent) with sufficient information clearly identifying the document (s) or records requested. The written request must include as a minimum:

- (1) Name and mailing address of the person requesting the public record (the “requester”);
- (2) Telephone number or other contact information for the requester;
- (3) Sufficiently detailed description of the record(s) requested to allow the County to search for and identify responsive records;
- (4) Requester’s signature and the likely date or dates of the records requested, if known
- (5) Date of request.
- (6) A \$20 deposit fee

Requesters should be encouraged, but not required, to use the County Public Records Request Form (Exhibit A). Written requests are important for not only properly indentifying records, but also for creating a record of the request and the reasoning for the decision regarding disclosure.

V. Processing the Request

Absent unusual circumstances, the Public Records Custodian or his or her designee shall process the public records request as follows:

Initial Assessment. The staff person receiving the request shall learn as much as necessary about what records are being requested. Staff should try to obtain information about the type of document sought, specific subject matter, specific date or date ranges and names. The County reserves the right to seek clarification of any public records request before responding to the request. The County reserves the right to deny any public records request if the request is sufficiently vague or unclear that the County cannot reasonably determine what records have been requested.

Routine Requests. The Public Records Custodian may take care of simple routine requests immediately. The Public Records Custodian shall collect the applicable fee from the requester before providing the documents. If applicable, the Public Records Custodian should inform the requester that the documents are available on the County website free of charge. Board of Commissioners’ transactions are also available on the County Clerk’s website free of charge.

Preliminary Records Search. Except for routine requests that can be addressed immediately, the Public Records Custodian shall require the requester to submit a written request, on the County Public Records Request Form or equivalent. After receiving the written request with the required information and the deposit fee, the Public Records Custodian shall make a preliminary determination as to whether the records exist, and whether all or a portion of the contents may be subject to exemption or are confidential.

The Public Records Custodian shall contact those departments that may have the requested records.

County Counsel.

- A. The Public Records Custodian shall contact County Counsel before responding to a request if the records relate to pending claims or litigation, or the Public Records Custodian believes the records may be confidential or exempt from disclosure.
- B. In addition, the Public Records Custodian shall consult County Counsel whenever the request raises unusual or special concerns, including copyright issues, records held by County contractors and requests made directly to elected officials.
- C. Prior to release of the public records requests, the public Records Custodian shall submit the records proposed to be released to County Counsel for review and possible redaction. County Counsel review shall be assessed at the rate of \$3.00 per page of documents or \$50 per hour.

Preliminary Response. The Public Records Custodian shall communicate the results of the preliminary records search to the requester as soon as possible and without unreasonable delay, but not later than 7 business days after the day of receipt of the written request, using the Public Records Request Acknowledgement Form (Exhibit B). The primary goal of this initial response is to inform the requester that the process of responding is underway, whether the County is or is not the likely repository of such documents and an approximate estimate of when the records will be available and the estimated total fee.

Fee Estimate. The Public Records Request Acknowledgement Form shall include a fee estimate for providing the records. Fee estimates must be provided if the total cost is in excess of \$20.00. The Public Records Custodian shall estimate the cost in staff time, including County Counsel review and other expenses required to locate the documents, perform redactions, ensure security during inspection, and otherwise respond to the request. The fee estimate shall be based upon the applicable rates found in the current County Public Records Fee Schedule available at [County website link with latest fees]. The fee estimate will normally include the following:

- Cost per page for photocopies. (.25)
- Cost per page for records transmitted by fax. (\$2.00)
- Cost per page for records transmitted by e-mail. (0)
- Actual cost for use of material and equipment for producing copies of nonstandard records.
- Cost per compact disk (CD) for electronic reproduction of computer records.
- Labor charges at \$40.00 per hour for researching, locating, compiling, editing, overseeing document inspections and otherwise processing information and records.

- The actual cost for delivery of records such as postage and courier fees.
- Cost for each true copy certification.
- The greater of the actual cost of \$50.00 per hour or \$3.00 per page for County Counsel time spent reviewing the public records, redacting material from the public records or segregating the public when he/she needs to review records into exempt and nonexempt records, redacting material or other required legal reviews.

Requester Confirmation & Payment. Absent unusual circumstances, the County shall not perform further work until the requester responds to the acknowledgment and pays the entire estimated fee in excess of the initial \$20.00 deposit fee. After receipt of the appropriate fee, the Public Records Custodian shall perform a final records process to assure implementation of necessary redactions and make requested copies. When performing these duties, the Public Records Custodian or his/her designees shall track the actual time and expenses involved in making the record or record copies available.

Provide Documents or Space to Review Records. The Public Records Custodian shall provide nonexempt records as promptly as the County can reasonably make them available, but not more than 20 business days after original submission of the request. (The requester shall pay any actual expenses incurred over the deposit amount before the County makes the records available. In the case of overpayment, the County shall reimburse the requester promptly.)

The requester may decide to inspect original files or records during usual business hours rather than obtain copies. In all cases, the Public Records Custodian must take reasonable steps to ensure that the records are protected from being altered, taken or destroyed. The County shall charge the actual labor costs for overseeing the document inspection, unless the inspection is free under applicable law.

VI. Miscellaneous

A. Disclosure format:

The County may make available or provide requested records in hard copy or in electronic format. Electronic documents sent by email will be provided in either PDF or TIF format. Reasonable steps must be taken to accommodate persons with disabilities and no fee may be charged for such an accommodation. The Public Records Custodian should consult with County Counsel regarding the County's obligations to accommodate a request under the Americans with Disabilities Act.

B. Waiver or Reduction of Fees:

The County Board of Commissioners or the Public Records Custodian may waive some or all of the public records request fee if the cost of charging the fee would exceed the revenue obtained or if making the record available primarily benefits the general public

as a whole as contrasted to a single individual or organization. A fee waiver in the public interest might include public records requests made by news media or other government agencies and County job applicants. The County requires requests for fee waivers or reductions to be made in writing along with a clear description of the specific public benefit gained by providing the documents with a partial or total fee waiver. The law prohibits waiving fees if the records were created through use of certain constitutionally dedicated funds, such as fuel taxes or motor vehicle fees, unless the cost of charging the fee would exceed the cost of providing the record. Fee reduction or waiver decisions are at the sole discretion of the County Board of Commissioners or the county Public Records Custodian.

C. Destruction of Records:

No County employee shall alter or destroy a record that the employee reasonably thinks is subject to a current or reasonably anticipated public records request or is relevant to current or reasonably anticipated litigation. This includes records otherwise eligible for destruction.

D. Request Log:

The Public Records Custodian shall document all public records requests, which are not handled immediately, in the records request log, regardless whether documents are ultimately disclosed to the requester. The request log and all associated records shall be retained in accordance with the Oregon State Archives schedule. Each Department shall confirm their applicable record retention schedule with the Oregon State Archivist.

E. Resources:

Attorney General's Public Records and Meetings Manual (January 2008):
http://www.doj.state.or.us/public_records/manual.shtml

F. District Attorney:

Denial of access to public records, or a denial of a request to totally or partially waive a records request fee may be appealed the Curry County District Attorney in accordance ORS 192.4.

Exhibit A
CURRY COUNTY PUBLIC RECORDS REQUEST FORM

_____ (Date)
_____ (Requester's Name)

_____ (Requester's Mailing Address)

_____ (City, State & Zip Code)
_____ (Telephone # - Optional)
_____ (E-mail address/ fax no.)

Curry County
PO Box 746
Gold Beach, Oregon 97444

Attn: _____ (Public Records Custodian/Department responsible for requested records)

Please make available for inspection or provide a copy or copies of the following records:
(Please provide a sufficiently detailed description of the record(s) requested to allow the County to search for and identify responsive records.)

I wish to arrange an opportunity to personally inspect the requested records.

I wish to receive copies of the requested records.

(Requester's Signature)

(Date)

*** Curry County will not process records requests without requester's name, mailing address, signature, date of request and a sufficiently detailed description of the requested records.**

Exhibit B
CURRY COUNTY PUBLIC RECORDS REQUEST ACKNOWLEDGMENT
FORM

COUNTY LETTERHEAD

_____ (Date)

To: [Requester]

In accordance with ORS 192.440(2), this is to acknowledge our receipt on [date] of your request for the following record[s]:

[Describe records requested.]

Having reviewed your request, we are able to inform you that:

Copies of all requested public records for which the County does not claim an exemption from disclosure under ORS 192.410 to 192.505 are enclosed.

The County [does not possess/is not the custodian of] the requested record[s].

The County is uncertain whether we possess the requested record[s]. We will search for the record and make an appropriate response as soon as practicable.

The records requested are confidential or exempt from disclosure under [cite to relevant state/federal law].

The County is the custodian of at least some of the requested public records. We estimate that it will require [estimated time] before the public records may be inspected or copies of the records will be provided. We estimate that the fee for making the records available is \$_____, which you must pay as a condition of receiving or inspecting the records.

The County is the custodian of at least some of the requested public records. We will provide an estimate of the time and fees for disclosure of the public records within a reasonable time.

[State/federal] law prohibits the County from acknowledging whether the requested record[s] exist[s]. [Cite to relevant state/federal law.]

The County is unable to acknowledge whether the requested record[s] exist[s] because that acknowledgement would result in [the loss of federal benefits/other sanction]. [Cite to relevant state/federal law.]

(Public Records Custodian or Designee's Signature)

Exhibit C
CURRY COUNTY PUBLIC RECORDS CUSTODIANS

Public record requests may be sent by email to publicrecordsrequest@co.curry.or.us, by mail to Curry County Public Records Request, PO Box 746, Gold Beach, Oregon 97444, or directed to a County department as described below:

**Curry County
Public Records Request
Policy and Procedure**

I. Summary and Purpose

Oregon Public Records Law (ORS 192.410-192.505) grants the public the right to inspect and copy most public records maintained by Curry County (the “County”). A public record includes any writing that is prepared, owned, used or retained by the County and contains information relating to the conduct of the County’s business. Certain records maintained by the County are not public records or may be exempt from public disclosure. Additionally, federal and state laws require the County to keep certain records confidential. This policy establishes an orderly and consistent process for responding to public records requests and calculating the fees for responding to such requests.

It is important to note that there is a distinction under the law between public records and public information requests. Oregon Public Records Law does not impose a duty on the County to create public records in response to an information request, or to extract data in a manner requested by the public. Likewise, the County is not required to create a record to disclose the “reasoning” behind County actions, or other “knowledge” its staff might have. The Oregon Public Records Law does not require the County to explain, answer questions or provide legal research or analysis about its public records.

II. Policy

It is the policy of the County to ensure that all requests for public records are handled consistently with applicable public records laws. The County shall make all public records, except those that are confidential or exempt from disclosure, available on request for inspection or copying during usual business hours without unreasonable delay.

This policy shall be implemented in a manner that emphasizes public disclosure while minimizing the impact on County workload and resources. Questions about this policy should be directed to County Counsel. This policy applies to all County departments and employees.

III. Public Records Custodian

Each department shall have its own “Public Records Custodian” who is responsible for maintaining the public records in that department and for coordinating and assisting staff implementation of this policy. The contact information for the Public Records Custodian for each County department is listed on Exhibit C.

IV. Written Requests

Except when in the judgment of the County it is more efficient to make available or provide copies of requested records without requiring a written request, all requests to

inspect or copy public records shall be in writing sufficient to identify the specific document(s) or document category(s) requested. The written request must include:

- (1) Name and mailing address of the person requesting the public record (the “requester”);
- (2) Telephone number or other contact information for the requester;
- (3) Sufficiently detailed description of the record(s) requested to allow the County to search for and identify responsive records;
- (4) Requester’s signature; and
- (5) Date of request.

Requesters should be encouraged, but not required, to use the County Public Records Request Form (Exhibit A). Written requests are important for not only properly identifying records, but also for creating a record of the request and the reasoning for the decision regarding disclosure.

V. Processing the Request

Absent unusual circumstances, the Public Records Custodian or his or her designee shall process the request as follows:

Initial Assessment. The staff person receiving the request shall learn as much as necessary about what records are being requested. Staff should try to obtain information about the type of document sought, specific subject matter, specific date or date ranges and names. The County reserves the right to seek clarification of any public records request before responding to the request. The County reserves the right to deny any public records request if the request is sufficiently vague or unclear that the County cannot reasonably determine what records have been requested.

Routine Requests. The Public Records Custodian may take care of simple routine requests immediately. The Public Records Custodian should collect the applicable fee from the requester before providing the documents. If applicable, the Public Records Custodian should inform the requester that the documents are available on the County website free of charge. Board of Commissioners’ transactions are available on the County Clerk’s website free of charge.

Preliminary Records Search. Except for routine requests that have been addressed immediately, the Public Records Custodian shall require the requester to submit a written request, preferably on the County Public Records Request Form. After receiving the written request with the required information, the Public Records Custodian shall make a preliminary determination as to whether the records exist, and whether all or a portion of the contents may be subject to exemption or are confidential. The Public Records Custodian shall contact other departments that may have relevant records.

County Counsel. The Public Records Custodian shall contact County Counsel before responding to a request if the records relate to pending claims or litigation, or the Public

Records Custodian believes the records may be confidential or exempt from disclosure. In addition, the Public Records Custodian shall consult County Counsel whenever the request raises unusual or special concerns, including copyright issues, records held by County contractors and requests made directly to elected officials.

Preliminary Response. The Public Records Custodian shall communicate the results of the preliminary records search to the requester as soon as possible and without unreasonable delay, using the Public Records Request Acknowledgement Form (Exhibit B). The primary goal of this initial response is to inform the requester that the process of responding is underway. The choices on the Public Records Request Acknowledgement Form allow the Public Records Custodian to promptly respond to the request even if it is still uncertain whether the County has responsive records.

Fee Estimate. If applicable, the Public Records Request Acknowledgement Form shall include a fee estimate for providing the records. Fee estimates must be provided if the total cost is in excess of \$25.00. The Public Records Custodian shall estimate the cost in staff time, including County Counsel review and other expenses required to locate the documents, perform redactions, ensure security during inspection, and otherwise respond to the request. The fee estimate shall be based upon the applicable rates found in the current County Public Records Fee Schedule available at [County website link with latest fees], unless governed by a specific departmental fee or otherwise provided for by law. Current department-specific fees can be found at [County website link with latest fees]. The fee estimate may include the following:

- Cost per page for photocopies.
- Cost per page for records transmitted by fax.
- Cost per page for records transmitted by e-mail.
- Actual cost for use of material and equipment for producing copies of nonstandard records.
- Cost per compact disk (CD) for electronic reproduction of computer records.
- Labor charges that include researching, locating, compiling, editing, overseeing document inspections and otherwise processing information and records.
- The actual cost for delivery of records such as postage and courier fees.
- Cost for each true copy certification.
- Cost per hour for County Counsel time spent reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records.

Requester Confirmation & Payment. Absent unusual circumstances, the County shall not perform further work until the requester responds to the acknowledgment and pays

the appropriate fee or deposit. After receipt of the appropriate fee or deposit, the Public Records Custodian shall perform a final records search, implement necessary redactions and make requested copies.

Provide Documents or Space to Review Records. The Public Records Custodian shall provide nonexempt records as promptly as the County can reasonably make them available. The requester shall pay any actual expenses incurred over the deposit amount before the County makes the records available. In the case of overpayment, the County shall reimburse the requester promptly.

The requester may decide to inspect original files or records during usual business hours rather than obtain copies. In all cases, the Public Records Custodian must take reasonable steps to ensure that the records are protected from being altered, taken or destroyed. The County shall charge the actual labor costs for overseeing the document inspection, unless the inspection is free under applicable law.

VI. Miscellaneous

A. Disclosure format:

The County may make available or provide requested records in hard copy or in electronic format. Electronic documents sent by email will be provided in either PDF or TIF format. Reasonable steps must be taken to accommodate persons with disabilities and no fee may be charged for such an accommodation. The Public Records Custodian should consult with County Counsel regarding the County's obligations to accommodate a request under the Americans with Disabilities Act.

B. Waiver or Reduction of Fees:

The County Board of Commissioners or a Public Records Custodian may waive the public records request fee if the cost of charging the fee would exceed the revenue obtained or if making the record available primarily benefits the general public. A fee waiver in the public interest might include public records requests made by news media, other government agencies and County job applicants. The County may require requests for fee waivers or reductions to be made in writing. The law prohibits waiving fees if the records were created through use of certain constitutionally dedicated funds, such as fuel taxes or motor vehicle fees, unless the cost of charging the fee would exceed the cost of providing the record. Fee reduction or waiver decisions are at the sole discretion of the County Board of Commissioners or the Public Records Custodian.

C. Destruction of Records:

No County employee shall alter or destroy a record that the employee reasonably thinks is subject to a current or reasonably anticipated public records request or is relevant to current or reasonably anticipated litigation. This includes records otherwise eligible for destruction.

D. Request Log:

The Public Records Custodian shall document all public records requests that are not handled immediately in a records request log, regardless whether documents are ultimately disclosed to the requester. The request log and all associated records shall be retained in accordance with the Oregon State Archives schedule. Each Department shall confirm the applicable record retention schedule with the Oregon State Archivist. Records required to be retained may include, but are not limited to, requests for disclosure, types of records requested, request logs, approvals, denials, correspondence and related documentation.

E. Resources:

Attorney General's Public Records and Meetings Manual (January 2008):
http://www.doj.state.or.us/public_records/manual.shtml

Exhibit A
CURRY COUNTY PUBLIC RECORDS REQUEST FORM

_____ (Date)

_____ (Requester's Name)

_____ (Requester's Mailing Address)

_____ (City, State & Zip Code)

_____ (Telephone no.)

_____ (E-mail address/ fax no.)

Curry County
PO Box 746
Gold Beach, Oregon 97444

Attn: _____ (Public Records Custodian/Department
responsible for requested records)

Please make available for inspection or provide a copy or copies of the following records:
(Please provide a sufficiently detailed description of the record(s) requested to allow the
County to search for and identify responsive records.)

I wish to arrange an opportunity to personally inspect the requested records.

I wish to receive copies of the requested records.

(Requester's Signature)

(Date)

*** Curry County will not process records requests without requester's name, mailing address, signature, date of request and a sufficiently detailed description of the requested records.**

Exhibit B
CURRY COUNTY PUBLIC RECORDS REQUEST ACKNOWLEDGMENT
FORM

COUNTY LETTERHEAD

_____ (Date)

To: [Requester]

In accordance with ORS 192.440(2), this is to acknowledge our receipt on [date] of your request for the following record[s]:

[Describe records requested.]

Having reviewed your request, we are able to inform you that:

Copies of all requested public records for which the County does not claim an exemption from disclosure under ORS 192.410 to 192.505 are enclosed.

The County [does not possess/is not the custodian of] the requested record[s].

The County is uncertain whether we possess the requested record[s]. We will search for the record and make an appropriate response as soon as practicable.

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[State/federal] law prohibits the County from acknowledging whether the requested record[s] exist[s]. [Cite to relevant state/federal law.]

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(Public Records Custodian or Designee's Signature)

Exhibit C
CURRY COUNTY PUBLIC RECORDS CUSTODIANS

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<p><u>ASSESSOR & TAX</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3294 800-242-7601 <i>Fax 541-247-6440</i></p>	<p><u>FINANCE</u> c/o County Clerk PO Box 746 Gold Beach, Oregon 97444 541-247-3295 <i>Fax 541-247-9361</i></p>	<p><u>PUBLIC SERVICES</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3304 888-811-1520 <i>Fax 541-247-4579</i></p>
<p><u>COMMISSION ON CHILDREN & FAMILIES</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3307 800-242-9478 <i>Fax 541-247-2603</i></p>	<p><u>HUMAN RESOURCES & PERSONNEL</u> c/o County Clerk PO Box 746 Gold Beach, Oregon 97444 541-247-3295 <i>Fax 541-247-9361</i></p>	<p><u>ROAD</u> PO Box 746 Gold Beach, Oregon 97444 541-247-7097 <i>Fax 541-247-7804</i></p>
<p><u>BOARD OF COMMISSIONERS OFFICE</u> c/o County Clerk PO Box 746 Gold Beach, Oregon 97444 541-247-3295 <i>Fax 541-247-9361</i></p>	<p><u>HUMAN SERVICES & PUBLIC HEALTH</u> PO Box 746 Gold Beach, Oregon 97444 541-247-6100/541-247-3300 877-739-4245/888-811-1513 <i>Fax 541-247-5601</i></p>	<p><u>RETIRED SENIOR VOLUNTEER PROGRAM</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3280 888-811-1521 <i>Fax 541-247-2705</i></p>
<p><u>COUNTY CLERK</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3295 <i>Fax 541-247-9361</i></p>	<p><u>INFORMATION TECHNOLOGY</u> c/o County Clerk PO Box 746 Gold Beach, Oregon 97444 541-247-3295 <i>Fax 541-247-9361</i></p>	<p><u>SHERIFF</u> PO Box 681 Gold Beach, Oregon 97444 541-247-3242 800-543-8471 <i>Fax 541-247-6352</i></p>
<p><u>COUNTY COUNSEL</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3291 800-730-4906 <i>Fax 541-247-2718</i></p>	<p><u>JUVENILE</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3302 877-739-4254 <i>Fax 541-247-5000</i></p>	<p><u>SURVEYOR</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3225 866-298-0301 <i>Fax 541-247-4579</i></p>
<p><u>DISTRICT ATTORNEY</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3298 800-730-4947 <i>Fax 541-247-6680</i></p>	<p><u>MAINTENANCE</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3384</p>	<p><u>TREASURER</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3299 866-298-0307 <i>Fax 541-247-3436</i></p>
<p><u>FAIREVENT CENTER</u> PO Box 746 Gold Beach, Oregon 97444 541-247-4541 877-739-4228 <i>Fax 541-247-4542</i></p>	<p><u>PARKS</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3285</p>	<p><u>VETERANS SERVICES</u> PO Box 746 Gold Beach, Oregon 97444 541-247-3205 866-298-0404 <i>Fax 541-247-2705</i></p>