

CITY OF COOS BAY CITY COUNCIL
Agenda Staff Report

MEETING DATE February 21, 2017	AGENDA ITEM NUMBER
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TO: Mayor Benetti and City Councilors
FROM: Rodger Craddock, City Manager
ISSUE: Recreational Immunity

SUMMARY:

The League of Oregon Cities (LOC) is asking city councils across Oregon to pass resolutions urging the Oregon Legislature to restore recreational immunity. LOC has identified the restoration of recreational immunity as one of its top legislative objectives for 2017.

ACTION REQUESTED:

If it pleases the Council, please adopt Resolution 17-04 urging the Oregon Legislature to restore recreational immunity.

BACKGROUND:

The Public Use of Lands Act was passed in 1995 to encourage public and private land owners to expand recreational access by limiting their liability to those recreating. However, the Oregon Supreme Court has ruled that the immunity enjoyed by land owners does not extend to employees, agents or volunteers, and this exposes cities and other land owners to tort claims brought against their employees. For public agencies, such as the City of Coos Bay, which are required to indemnify and defend their employees against such claims, recreational immunity has been stripped away.

Without effective recreational immunity, cities will expose themselves to unwarranted risks if they provide recreational opportunities, such as parks, in their community. According to the League of Oregon Cities, some cities have been forced to close parks. Oregon's recreational opportunities are utilized to a high degree by its citizens, contribute to quality of life, and should not be compromised by the possibility of such lawsuits.

BUDGET IMPLICATIONS:

Failure of the Oregon Legislature to restore recreational immunity will no doubt impact future budget by increase cost for liability insurance coverage.

City of Coos Bay

Resolution 17-04

**A RESOLUTION OF THE CITY OF COOS BAY, COOS COUNTY, OREGON
RECOMMENDING RESTORING RECREATIONAL IMMUNITY RIGHTS**

WHEREAS, in 1995, the Legislative Assembly declared it to be the public policy of the State of Oregon to encourage landowners to make their land available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes, and;

WHEREAS, recreations purposes include, but are not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, water sports, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project, including the above aforementioned activities, as well as: gardening, woodcutting and for the harvest of special forest products, and;

WHEREAS, the Public Use of Lands Act has increased the availability of land for free recreation by citizens and visitors alike by limiting liability to cities, counties, park districts, irrigation districts, schools and private landowners, including property-owner associations, farmers and timber companies that, by virtue of this act, allow members of the public to use or traverse their lands at no charge for recreation purposes, and;

WHEREAS, for twenty years, the Public Use of Lands Act has been broadly interpreted to extend this immunity from liability to apply not only to landowners but also to the landowner's agents, and volunteers, and;

WHEREAS, in *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature passed the Public Use of Lands Act, it intended to immunize only the landowner, otherwise the Legislative Assembly would have included employees, agents and volunteers in the Act, and;

WHEREAS, this ruling effectively undermines a landowner's recreational immunity from tort liability under the Act because public employers are statutorily required to represent and indemnify their employees and most, if not all, landowners who allow access to their lands free of charge will ultimately be responsible for the negligence of their employees that results in injury to a member of the public or property, and;

WHEREAS, landowners will likely face substantially increased insurance premiums for this new risk exposure and/or have to close their property or amenities to Oregonians trying to recreate due to the result of this decision.

NOW, THEREFORE, let it be known that the City of Coos Bay supports legislation in the 2017 Oregon Legislative Assembly promulgated to restore recreational immunity to landowners and their officers, employees, agents or volunteers who are acting within the scope of their employment or duties so to allow Oregonians to access their lands for recreational use and enjoyment.

The foregoing resolution was duly adopted by the City Council of the City of Coos Bay, Coos County, Oregon this 21st day of February 2017.

Joe Benetti, Mayor

ATTEST: _____
Susanne Baker, City Recorder