



# CITY OF BROWNSVILLE

## Council Meeting

Tuesday – November 27<sup>th</sup>, 2012

**Regular Session 7:00 p.m.**

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# CITY OF BROWNSVILLE

## Council Meeting

City Hall – Council Chambers  
Tuesday, November 27<sup>th</sup>, 2012

### AGENDA

#### Regular Session

**7:00 p.m.**

- 1) CALL TO ORDER
- 2) ROLL CALL
- 3) PLEDGE OF ALLEGIANCE
- 4) ADDITIONS OR DELETIONS TO AGENDA
- 5) MINUTES: October 23<sup>rd</sup>, 2012
- 6) PUBLIC HEARINGS OR PRESENTATIONS
  - A. Sweet Home Sanitation – Franchise Agreement
  - B. Brownsville Art Association
  - C. Colleen Garrison & Jay Marsh – 382 Kirk Avenue
- 7) DEPARTMENT REPORTS:
  - A. Sheriff
  - B. Planning
  - C. Public Works
  - D. Administration
  - E. Library
  - F. Court
  - G. Council
- 8) CITIZEN COMMENTS (Non-agenda & Agenda items)
- 9) LEGISLATIVE:
  - A. R 693: Certify Election Results
  - B. R 694: Pro Tem Judge

This Agenda is a list of the subjects anticipated to be considered at the meeting, but the Council may consider additional subjects as well. The location of the meeting is accessible to physically challenged individuals. Should special accommodations be needed, please notify City Administrator S. Scott McDowell at (541) 466-5880 in advance. Thank You.

C. R 695: Copy Machine Purchase

10) ACTION ITEMS

- A. Appoint Library Advisory Board Member
- B. Council Work Session Review
- C. 1022 Oak Street – Fence Issue

11) DISCUSSION ITEMS:

- A. MOU Updates (CLRC)
- B. Nuisance Abatement Update
- C. Possible Nuisance Legislation
- D. Park Camping Off Season
- E. October Financials

12) CITIZEN QUESTIONS & COMMENTS

13) COUNCIL QUESTIONS & COMMENTS

14) EXECUTIVE SESSION

- Oregon Revised Statutes, Chapter 192.660 governs the conditions for a public body to convene in an Executive Session. The City will invoke Section (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions and, (i) to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

15) ADJOURN

This Agenda is a list of the subjects anticipated to be considered at the meeting, but the Council may consider additional subjects as well. The location of the meeting is accessible to physically challenged individuals. Should special accommodations be needed, please notify City Administrator S. Scott McDowell at (541) 466-5880 in advance. Thank You.



## Council Minutes

September 25<sup>th</sup>, 2012

ROLL CALL: Mayor Ware called the meeting to order at 7:00 p.m. with Councilors Shepherd, Chambers, Gerber, Van Sandt, Cole and Boyanovsky present. City Administrator Scott McDowell, Public Works Director Karl Frink and City Planner Bill Sattler were also present.

PUBLIC: Kaye Fox, Rick Dominguez, Sherri Lemhouse & Sergeant Brad Kelley

ADDITIONS AND DELETIONS: None.

MINUTES: The Council reviewed the minutes of the September 25<sup>th</sup>, 2012, meeting without exception. Councilor Gerber moved to approve the minutes. The motion was seconded by Councilor Cole and was approved unanimously.

### PUBLIC HEARINGS OR PRESENTATIONS:

1. Mr. Rick Dominguez – Gateway Flag Pole Proposal. Mr. Dominguez told the Council that the American Legion would like to place two flagpoles at the Hwy. 228 / Main Street intersection in the new gateway sign features. He said that the Legion would buy the poles and maintain the flags. He said that electricity would be needed to light the flags at night. He said that he knew that Linn County was in charge of the Main Street right of way but wanted the Council's recommendation to Linn County. Councilor Cole said that she was not in favor of the proposal as she thought the area was too visually cluttered at present and didn't want to make the situation worse. Councilor Van Sandt said that she might support one but didn't see the need for two as there are already a number of flags installed in town. Councilor Chambers said that she was in favor and didn't think there were too many flags. Councilor Gerber said that the City has flags in front of City Hall and the Library and didn't see the need for more. Councilor Boyanovsky suggested moving ahead with exploring the idea and to contact Linn County to see what their requirements would be. He made a motion to have Staff follow up with Linn County to determine their requirements. The motion was seconded by Councilor Chambers and was approved unanimously.
2. Sherri Lemhouse – Library Report. Ms. Lemhouse gave the Council an update on activities at the Library. She said that 68 kids had participated in the Summer Reading Program and said that Parents and Pals is meeting at the Library now. She said that there are youth programs on Tuesdays and Fridays. The adult Book Club and the Stitchery Group are meeting at the Library. Ms. Lemhouse said that Sandra Weingarten is leaving after serving as a volunteer since 1986 and she would be honored for her service in December.

### DEPARTMENT REPORTS:

1. Sheriff's Report. Sgt. Kelley said that things had quieted down with the weather change. Councilor Cole said that the Sheriff's report showed five adults had been arrested and asked if that was typical. Sgt. Kelley said that it just depends on the circumstances, as for example if someone is stopped at Dari Mart passing through town and has a warrant, that would count as an arrest in Brownsville. It doesn't necessarily reflect activities within Brownsville.



## *Council Minutes*

2. Planning. Mr. Sattler said that the Planning Commission would be meeting to consider a Variance application on behalf of two persons wishing to develop a large parcel off of Washburn. They hope to build two new homes on the land and would like to create a third lot from the 3.76 acres.
3. Public Works. Mr. Frink reported that Houck Construction had done some work on Oak Street but had not finished the punch list items remaining. He said that the irrigation has finished at the North Sewer Plant for the year without any problems. Mr. Frink said that there has been a long history of complaints about Public Works cleaning the sidewalks in the downtown area. He said that there were complaints no matter what Staff did so he has decided to quit cleaning the sidewalks and leave it up to the property owners as it is ultimately their responsibility. Mr. Frink said that City Engineer Jon Erwin recently finished up the Claim of Beneficial Use to further the process of certifying the City's water rights in an attempt to avoid issues with ODFW's curtailment of water use. Mr. McDowell said that the water rights research had turned up an older claim from 1912 that should still be possible to use and that some work would be needed to get the well going. He said that Mr. Erwin is looking into the cost of the work.
4. Administrator's Report. Mr. McDowell said that Boldt, Carlisle & Smith will be doing the payroll for the City in the future with October being the first run. He said that Barker Uerlings has reviewed the City's insurance coverage and are looking at the flood coverage for the City Shops. The other issue that has come up is for coverage for mobile equipment as the deductible is very large compared to the cost of the equipment. McDowell explained that those items should still be covered at replacement cost in the event of a major fire or theft. Coverage is being expended to accurately reflect what a loss would look like at the City Shop. McDowell reported that Elizabeth Coleman held a successful Arbor Day celebration and thanked the officials for coming out. McDowell reported that the issue with the Canal Company and the IRS had been resolved favorably. The City is waiting to see if the Canal Company hires a new attorney. McDowell explained the Christmas decorations. The City, the Chamber and Norm's Electric are working together to make this happen. He explained the decline of Pacific Power's role in the project.
5. Library Report. Ms. Lemhouse provided a written report in addition to her oral report.
6. Court Report. The Municipal Court provided a written report.
7. Council Comments. Councilor Boyanovsky said that he had received an email from Cascades West COG saying that on December 6<sup>th</sup> an LOC representative would be giving a presentation on property takings at the Cascade West Council of Governments offices in Albany.
8. Citizen Comment. NONE

### LEGISLATIVE:

1. Resolution 692 – Declaring an Insurable Interest. Mr. McDowell said that due to the odd situations of the millrace pump station and the Gateway improvements the City has an interest in improvements on land it doesn't own. McDowell recommended that the City formalize the fact that it has an insurable interest in the pump station and the Gateway improvements for insurance purposes. Councilor Gerber moved to approve Resolution



## *Council Minutes*

692. The motion was seconded by Councilor Shepherd. Councilor Van Sandt asked about the cost of the insurance. Mr. McDowell said he wasn't sure of the total because the Mill Race appurtenances had yet to be calculated. The motion passed unanimously.

### ACTION ITEMS:

1. Appointed Officials and Possible Advertisements. Mr. McDowell said that as usual a number of appointed positions are up at the end of the year. He said that most would be asked to be reappointed but there could be some openings and asked for approval to advertise any open positions. Councilor Van Sandt moved to approve advertising as needed. The motion was seconded by Councilor Cole and was approved unanimously with Mayor Ware abstaining due to a potential conflict of interest.
2. Reschedule December Council Date. Mr. McDowell said he wanted to move the December meeting to December 18<sup>th</sup> to avoid Christmas. The proposal was approved by consensus. Councilors Boyanovsky and Cole indicated that they will not be able to be present.
3. City Hall Office Hours. Mr. McDowell said that he would like to change the hours City Hall is open to the public from 8 until 5 to 8:30 until 4:30. He said that Staff would be there 8 until 5 but that it would give them some time to work without interruption. Councilor Shepherd disagreed with closing at 4:30. Mr. McDowell said that if anyone couldn't make it during those hours they could arrange an appointment for any other time and explained several instances of when Staff has met with citizens at odd times. He also explained all of the ways citizens have to make payments. He said that he would like to start November 13<sup>th</sup> and see how it works. Councilor Cole moved to approve the proposal. The motion was seconded by Councilor Boyanovsky and was approved six to one with Councilor Shepherd voting no.

### DISCUSSION ITEMS:

1. MOU Updates. Mr. McDowell indicated that he met with Ms. Tetamore from the Brownsville Art Association and found one significant change needed to be made in that the insurance coverage for general liability and contents should be provided by the Art Association. There was mutual agreement regarding the flooring provisions of the MOU. In reviewing the agreement with the Chamber, he added provisions regarding the Christmas decorations and the flower baskets to the MOU. The City has also explained the need for 60 days notice which is to adequately inform those people contacting City Hall. The Rec Board has a copy of their MOU and he has not received any response from them yet. The Festival of Tents, Willamette Valley Cycling Tour and the Willamette Agility Group are all planning events in the Park for 2013. Councilor Cole said that she would like to see a three year review provision in the Sweet Home Sanitation agreement and Mr. McDowell said that he agreed and is working on it. Mr. McDowell said that the Eugene Kennel Club would like to come back next summer. Councilor Gerber said that there has been problems with the soccer fields last summer due to their not being watered in advance of the dog show. Councilor Chambers suggested that there must be a way to water the fields to some extent to preserve the grass without getting so wet as to cause ruts. Councilor Shepherd noted that the revenue generated by the event was helpful to support the additional seasonal Staff. Mr. Frink noted that the fields have only been watered for one year out of the last 12. Councilor Chambers said that the Council should do what it can to bring events to town.



## *Council Minutes*

2. Nuisance Abatement Updates. Mr. McDowell updated the Council on some nuisance abatement projects he's working on and showed them photos of some sites.
3. September Financials.

COUNCIL COMMENTS: Councilor Chambers said that the play equipment at Remington Park needs to be repaired, replaced or removed.

CITIZEN COMMENT: Ms. Kaye Fox asked to have the Senior Center added to the City's web site. Mr. McDowell asked her to prove the information she would like added.

EXECUTIVE SESSION: The Council adjourned to Executive Session at 9:11 p.m. pursuant to ORS 192.660 Section (e) and (i).

Mayor Ware & Council returned to Regular Session at 9:52 p.m.

Council made a motion to appoint Mayor Ware, Councilor Shepherd and Councilor Van Sandt to work with McDowell to negotiate a possible real estate transaction.

ADJOURNMENT: Councilor Shepherd moved to adjourn. The meeting was adjourned at 10:01 p.m.

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City Administrator S. Scott McDowell

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Mayor Don Ware



# City Administrator Report

November 27<sup>th</sup>, 2012

**From:** S. Scott McDowell  
**To:** Mayor & Council  
**Re:** General Business

**Sweet Home Sanitation Franchise Agreement** – Enclosed in the packet is the marked up version of the Franchise Agreement. The summary of changes is as follows:

- 1) **Page 1** – Name change.
- 2) **Page 2** – Definition clarification.
- 3) **Page 3** – Exclusive franchise clarification that protects the waste stream as it relates to possible revenue for the franchisee.
- 4) **Page 4** – *Section 5*. Date change. Later in the agreement has a franchise review condition.
- 5) **Page 5** – *Section 7*. Changes the way rates are amended and requires a Council resolution as part of the notification process.
- 6) **Page 5 & 6** – *Section 7*. Discusses the contingencies that could cause rates to increase and what the definitions are for pass through associated costs such fuel, regular rate adjustments and landfill/tipping fees.
- 7) **Page 6** – Requires a franchise report every three years to keep Council current on the tenants of the agreement and ensures that the relationship is kept up-to-date.
- 8) **Page 8** – Time frames for any resulting compliance issues.
- 9) **Page 9** – Enforcement of the agreement has a penalty provision that attempts to require City action.
- 10) **Page 10** – Name change.
- 11) **Page 11** – Date change.
- 12) **Page 12** – Rates for Service to be done as resolutions of Council from now forward.

Scott Johnson will be available for questions and discussion on these topics. Council may request, change, edit or negotiate whatever you think is in the best interest of the City. I will formalize the Ordinance for the December meeting. Please let me know if you have any questions or concerns.

**Brownsville Art Association** – The City recently had our second meeting and we think we have the agreement ready for Council consideration. I have attached the document for your review. The agreement allows subletting of the space, exactly like the agreement with the Central Linn Rec Center. The other item that is added is that the City is being asked to cover insurance costs over the life of this three year agreement. Basically, the City covers the premium for the first year and partial premiums for an additional two years after. The Association will be responsible for covering the deductible which is \$250 per occurrence.

*From last meeting:* I met with Dr. Lorraine Garcy and Association President Alice Tetamore on October 16<sup>th</sup> to review the tenants of the current memorandum of understanding (MOU) and to also look forward to renewal. The Association has many plans for the future including offering workshops at a low cost, providing more classes for youth & adults and to attract artists from around the region. The Association is in the process of developing a 3 to 5 year business plan and are professionalizing their organization using written policy, developing an organization chart with responsibilities for members who hold specific leadership roles and standardizing current practices.

The major difference between the last MOU and the proposed MOU is occupancy/building use. This fundamental change will raise insurance questions regarding the general liability & property coverage for the Art Center. I will continue working with the Association's leadership to fully develop the MOU to all parties satisfaction. The plan is for the Association leadership to come to one of the future Council meetings (November or December) to discuss the MOU in person and give an overview of what they have accomplished over the last two years and what they plan to accomplish in the future.

**382 Kirk Avenue** – They have requested an appeal to the Notice to Abatement. I have attached the documentation for your review. Please let me know if you have any questions.

**R 693: Certify Election Results** – I hope to have the results and resolution for Council's consideration.

**R 694: Pro Tem Judge Appointment** – I think the resolution is self-explanatory.

**R 695: Copy Machine Purchase** – The City will be compiling results of the proposals and making a recommendation to Council for the purchase of a new copy machine. Council has budgeted for this expense. The City will also be entering into a maintenance agreement for the care of the machine. I will have the details for the meeting as the proposals are not officially due until Monday, November 26<sup>th</sup>.

**Appoint Library Advisory Board Member** – The City had an individual on the waiting list. I hope to have an appointment for Council the night of the meeting.

**Council Work Session** – I would like to plan two sessions with Council for January. One session would be to do a tour, basic municipal overview, policy review and situational scenarios and the second session would be for goal setting. Please bring your schedules so that we can make both meetings work for everyone as best as possible.

**R 476** – Included in the packet for your review is Resolution 476 which discusses general Council rules. I would like to discuss adding several pieces to this resolution that will actually set up a code of conduct for elected and appointed officials with clear, definable guidelines. I plan on discussing this further at one of the future Council planning sessions.

**1022 Oak Street** – I will present some pictures for Council's review. The Brownsville Municipal Code allows Council the authority to specify an "unenumerated" nuisance. Below is the section of code:

**8.30.140 Unenumerated nuisances.**

A. The acts, conditions or objects specifically enumerated and defined in BMC 8.30.020 through 8.30.120 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in BMC 8.30.150 through 8.30.200.

B. In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City is declared a nuisance and may be abated as provided in this chapter. [Ord. 588 § 45, 1989; Compilation § 4-5.45.]

Council will be asked for a determination regarding a section of fence on the above referenced property.

**Rec Center Contract** – Rec Board President George Frasier requested that the City exercise the one year option which will extend the current Rec Center agreement for renegotiation until Fall 2013.

**Chamber MOU** – The agreement has been executed and officially forwarded to all parties.

**Nuisance Abate Update** – I will give an oral report on this topic.

**RV Modification Language** – The City has encountered nearly three (3) dozen occurrences over the course of the last six years of RVs being used as homes. In almost every instance, undesirable activity accompanies. Below is an excerpt from a letter that was recently sent to a renter and the landlord:

The **first issue** is in regards to the use of the RV/Trailer on the southeast side of your property. Your property is located in a Medium Density Residential (MDR) zone which allows RV/Trailer use for a specific time frame. The City witnessed the use of this RV/Trailer and officially noted the calendar on October 22<sup>nd</sup>, 2012 during routine City-wide inspections. Basically, property owners are allowed to have RV/Trailers used for 30 days in a 90 day period. As of November 5<sup>th</sup>, fifteen (15) days have been used toward the thirty (30) days. The City would prefer to have a letter from your landlord granting permission for this use.

Below is the applicable section of the Brownsville Municipal Code:

**15.105.030 Occupancy of recreational vehicles.**

A. Occupancy of recreational vehicles is permitted in the LDR, MDR and HDR zones, subject to the following standards:

1. A person may occupy a recreational vehicle on private land with the consent of the owner of the land under the following conditions:

- a. If the recreational vehicle is fully self-contained, it may be occupied for up to 30 days in any 90-day period on property occupied by, or contiguous to property occupied by, the owner of the property. An extension for a period not to exceed 15 days may be granted upon request and administrative review.

*What is being asked of Council?*

Council should consider possible modifications to this permitted practice. Caveats could include a visiting family member or perhaps someone building a house from out of the area and using a RV during the active construction of the new home. Council could also create a permit component that would require action by citizens using RV units as living facilities.

**Garage Sale Language** – Council discussed reviewing a garage sale permitting process. Several properties over the course of the last two years have put up garage sales to avoid nuisance abatement measures. Below is the City of Stayton, Oregon's model:

**Garage Sale Permits Rules & Information**

The City of Stayton Municipal Code includes the following provisions relative to garage sales within the City of Stayton:

1. As defined by the ordinance, a garage sale is any sale, display of goods for sale, or offer to sell any goods, including temporary auction, sale of antiques, rummage sales, tailgate sales, or any other sale of similar nature where all goods offered for sale consist of used personal property.
2. A permit is required of all persons conducting a garage sale as defined above.
3. The fee for garage sale permits is \$5.00.
4. Sales operated by, or sales from which proceeds will go to recognized charitable, religious organizations or institutions, are exempt from the fee requirement. The organization may pick up a permit to display, at City Hall, at no charge.
5. Permits must be displayed in plain view at all times during all sales.
6. The maximum duration for all sales is 72 hours. Under no circumstances shall the sale exceed 72 hours.
7. No more than four permits per year shall be issued for any one person or for any one location.
8. All garage sales shall be conducted wholly upon the premises of the person to whom the permit was issued, unless otherwise specified on the permit.
9. Signs not in compliance with the following restrictions will be removed by city staff.

A. All signs *must be*

- 1.) On the property where the garage sale is being held.
- 2.) Removed immediately after the sale is over.
- 3.) On an individual stake.

B. Signs *may not be* on any of the following:

- 1.) any type of box
- 2.) telephone pole
- 3.) traffic, information or directional sign post

C. Signs *may not be* located in any of the following areas:

- 1.) between the inside of the sidewalk/planter strip and the street
- 2.) on the corner of any intersection
- 3.) any place that would obstruct the view of the traffic
- 4.) any place that would slow or stop the flow of vehicular or pedestrian traffic

The ordinance officer will check all signs daily to make sure signs are placed in compliance with the Code. If the signs are not placed according to the Code, they will be removed. Please call the Police Department to claim a sign or for any further questions.

10. Waiver of these requirements may be granted upon application to the Stayton City Council. Applications may be oral or in writing and must include specific reasons for the request.

11. Violation of provisions of Ordinance 668 is punishable by a fine not to exceed \$500.

### Thoughts

Brownsville could not require a permit for the week of City-wide Garage Sale or make other arrangements. I would recommend no more than two (2) garage sales plus the City-wide Garage Sale event. Signage has not been an issue in Brownsville but I left the language so Council could understand Stayton's full process. I would also recommend basing the permits on a calendar year basis.

**Internal Building Permits** – During the course of time in Brownsville, many accessory buildings, fences, primary structures and the like have been built in the right-of-way over property lines or not in compliance with zoning setbacks. Council could consider instituting a permitting process which would require any new construction to file for setbacks permit. Basically, staff would verify the actual setbacks on the property prior to construction. Permits could be \$20 to offset Staff costs.

**Linn County Flag Pole** – Elizabeth Coleman and Daineal Malone met with Rick Dominguez. The City provided Mr. Dominguez with the following items to be aware of for the project:

1. Will County need **Specifications**?  
Rick was given a County form to fill out specifications of the project, to be sent to the County.
2. Will need to get **Signoff** from area businesses (i.e. Dari Mart, Brownsville Body Shop, Divine Coffee Company). According to Daineal, she does not think this is a requirement; however, letters of support would not hurt.
3. Electricity to Site? City of Brownsville is responsible for the electricity; Rick may be contacting the City of Brownsville on this.
4. Will additional easements need to be obtained?
5. If work is approved Contractors will need to be licensed and bonded.
6. Permit information will need to be obtained. ODOT? Daineal will email an ODOT contact.

7. If approved at the County level, the project needs to be brought before Council for review before permit is executed.
8. Memorandum of Understanding for the American Legion will be drawn and signed to ensure future maintenance for Site.

Mr. Dominguez is aware that he needs to come back to Council prior to completing the permit with Linn County.

**Region III League of Oregon Cities Meeting** – Mayor Ware & Council Van Sandt attended the most recent meeting in Halsey. The Department of Environmental Quality had several representatives in attendance that talked about sampling procedures, the Clean Water Act, Total Maximum Daily Load (TMDL) and permitting issues. They explained the process is coming more in line with the Clean Water Act in order to keep Oregon in compliance with the Federal requirements. I really appreciate our officials making an effort to involved with this regional group, plus we had a great lunch!

**NPDES Permit Review** – Every three years, the State reauthorizes this important permit that allows the City to discharge wastewater into the Calapooia River and onto City owned fields. The City hired Westech Engineering, Salem, to do a full review of the document. The City received the document for review on November 5<sup>th</sup>, 2012 and it was required to be back to the State by November 16<sup>th</sup>, 2012. I've enclosed the letter that was sent on behalf of the City by Westech, along with other notes regarding this review for your information. The State does not allow too many exceptions are variations of these rules. These are the rules that are handed down from the United States Environmental Protection Agency as part of the Clean Water Act. The State of Oregon, through the Department of Environmental Quality, enforce these rules in order to maintain eligibility with Federal funding agencies.

**December Council Meeting** – Council meeting will be on December 18<sup>th</sup>, 2012. Councilor Cole will not be in attendance.

**City Hall Office Hours** – The City started the new open hours. So far, the transition has been very simple. Staff appreciates the hour a day to get things in order without all of the normal distractions.

**BCS: Payroll** – Jannea Deaver and I continue to work out the bugs for this considerable transition.

**Calapooia Crossing Update** – Ryan Quigley will be attending a future Council meeting to discuss the final design plans.

**Christmas Decorations** – The plan is to install them this week. They could possibly be up prior to Council meeting.

**Barker-Uerlings Agreement** – The City has recently executed a new flood insurance policy which adequately covers the Public Works Shop. The City is still waiting on coverage for the Mill Race & Gateway components as discussed at last meeting.

**Final Proof Survey** – Jon Erwin has completed the Claim of Beneficial Use for Oregon Water Resources. The document has been sent for OWRD consideration. The City will be submitting the Water Master Plan in accordance with the deadline of December 31<sup>st</sup>, 2012. Mr. John Cunningham is currently putting the finishing touches on his portion of the project. The City has asked Mr. Jon Erwin to perform a complete review prior to submitting the plan to the State.

**WCMF Debrief** – I recently spoke with Anne Hankins who reviewed several of the issues that were pressing including the interface with the Linn County Sheriff's Office, abutting neighbors, camping and overall festival attendance. Mrs. Hankins is pleased with the progress being made. I expressed the City's willingness to help in any way.

**Finance Outcomes** – Auditor Joshua Morrow reports that they are getting close to reconciling last fiscal year. He hopes to have the audit to the City by the end of the year. *From last meeting:* The City is still working with BCS on FY 2011 – 2012 numbers for the audit. The City plans on contracting with BCS for some additional accounting work as discussed at previous Council meetings since November 2011.

**VLC Update** – The group has put together an RFP for tourism related services. They will be discussing the RFP at the next meeting will be on December 4<sup>th</sup>, 2012 in Lebanon.

*From the last meeting:* The Coalition is still working diligently on bolstering awareness for the Trails to Linn website (<http://trailstolinn.com>). The group is also very focused on developing a strategic plan for the next 3 to 5 years and is discussing the possibility of working with the Linn County Commissioners on tourism development issues. The group has met continuously for over four years.

**Canal Company Update** – *From last meeting:* As reported at last Council meeting, Canal Company Attorney Deb Dyson has stepped down as their attorney citing a change in her law practice. I am still waiting to hear from the Canal Company to determine who their new attorney will be and if they have remedied the issue regarding their IRS status.

**Backhoe Outcome** – *From a previous meeting:* The City has ordered the JCB backhoe from Brim Tractor and is awaiting delivery. The City thanked all of those parties who provided proposals for this important piece of machinery. Staff is waiting until this winter to put out a quote for a new mower as provided for in the City budget.

**S. Oak Street Water Line** – Karl and I will be meeting with Ryan Quigley to review the work Houck performed. Staff will continue to follow-up until all of the items are completed to the City's satisfaction.

*From last meeting:* Karl and I are working on some punch list items with City Engineer Ryan Quigley. The City still has a little over \$8,000 in retainage which will be released when the City is satisfied with the final construction outcome.

**Eugene Kennel Club** – Staff will be following up with representatives from the Club to discuss 2013.

**WCMF & RV Outcome** – The City will be working with WCMF on this issue for 2013.

**Calapooia Watershed Council** – *From July 2012 meeting:* The City submitted some expenses for the Council's consideration regarding the remaining funding discussed by Executive Director Tara Davis at the last Council meeting. There will be more to discuss as our expenses were under \$5,000, should they be deemed eligible.

**Art Association Flooring** – They have been working diligently on the flooring. They hope to be open for the Chamber's Home for the Holidays which being on November 30<sup>th</sup>.

**Public Buildings** – So far so good with the new signs installed at the Rec Center. Everyone is continuing to monitor the situation.

*From last meeting:* The City continues to experience problems with building security stemming from groups not locking doors after they are finished using City facilities. The Rec Center has been left open Sunday through Monday or Friday through Saturday at least a dozen times during the last year. City Hall has also been found unlocked from time to time. The City has sent letters, posted signs and really it should be common sense to lock the facility but the end result is doors are being left open. Staff's concern is the possibility of vandalism. Council and Staff have put a lot of time and effort into making our facilities first rate. I would like to hear any ideas Councilors may have to help this concern. One option would be to charge an annual deposit for service groups who use City facilities however this could pose a financial hardship to those groups and would really not produce the result of getting the buildings closed nor would it help cover the cost of any potential vandalism.

**Willamette Neighborhood Housing Services Update** – The Board recently passed a few changes to enable WNHS greater flexibility in helping clients. The City also features their information downstairs in the foyer and on the website.

*From last meeting:* The group is asking Linn County to be the sponsor of the new grant application. I've enclosed some information for your review from the meeting last week. They would like to get the word out on a few programs that will help stave off foreclosures. Please refer citizens to the following websites for more information:

<http://www.oregonhomeownersupport.gov>

<http://w-nhs.org>

Several things are being discussed that will affect the future financial well-being of WNHS and the partnership with LCHRP (Linn County Housing Rehabilitation Program.) WNHS provides many home rehabilitation services and counseling for those in need.

**ODOT Outcome** – *From past meetings:* I spoke with Permit Specialist Ken Lamb who indicated that he would work on the permits for the Welcome Sign parcels of property the City maintains. The City has sent him the information that has received no response.

*From past meetings:* Spoke with Tony Jones regarding this issue. Hopefully, the City will see some progress soon.

**Darrin Lane & Kirk Avenue** – *From the September 4<sup>th</sup>, 2012 meeting:* Darrin Lane Stopped for a visit on August 7<sup>th</sup> and indicated that County Engineer Chuck Knoll is working on the subsurface investigations.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'SM', written over the printed name.

S. Scott McDowell



PATRL\_RPT#2 City Incident Report

CAD Call#	ENTRY DATE	ENTRY TIME	CALL DESCRIPTION	STREET #	ADDRESS	CITY	DIS POS	DESCRIPTION
123050274	10/31/12	14:47:55	Trf Observe Susp Activity	27207	HUME ST	Brownsville	100	CITE ISSUED - DWS/NO ODL
123050136	10/31/12	9:51:26	WARRANT SERV	300	WASHBURN ST	Brownsville	001	Incident Report
123040319	10/30/12	21:23:15	DEATH INV	500	LOUCKS WY	Brownsville	001	Incident Report
123040223	10/30/12	16:15:09	DISPUTE-NEIGHBOR	1022	OAK ST	Brownsville	014	No Additional Report Necessary
123040209	10/30/12	15:31:19	WELF CHECK	604	TEMPLETON ST	Brownsville	014	No Additional Report Necessary
123030212	10/29/12	14:56:04	WELF CHECK	905	OAK ST	Brownsville	014	No Additional Report Necessary
123020199	10/28/12	17:32:57	Trf Aggressive Driver	100	STANARD AV	Brownsville	094	CITE ISSUED - SPEEDING VIOLATION
123010043	10/27/12	3:23:05	ALARM - POLICE	220	S MAIN ST	Brownsville	014	No Additional Report Necessary
123010013	10/27/12	0:32:59	Trf Equipment Viol	100	STANARD AV	Brownsville	071	WARNING - EQUIPMENT VIOLATION
123010004	10/27/12	0:07:25	911 HANGUP	122	PUTMAN ST	Brownsville	014	No Additional Report Necessary
123000271	10/26/12	17:14:09	PHONE-HARASSMENT	723	N MAIN ST	Brownsville	014	No Additional Report Necessary
123000197	10/26/12	13:50:53	CIV PROCESS-OTHER	1030	OAK ST	Brownsville	014	No Additional Report Necessary
123000166	10/26/12	12:30:06	THEFT-RPT	220	NORTH AV	Brownsville	001	Incident Report
123000080	10/26/12	7:40:09	Trf Speed Viol	100	HAUSMAN AV	Brownsville	070	WARNING - SPEEDING VIOLATION
123000078	10/26/12	7:31:56	Trf Aggressive Driver	811	N MAIN ST	Brownsville	102	CITE ISSUED - AGGRESSIVE DRIVER
123000066	10/26/12	6:24:33	Trf Aggressive Driver	220	S MAIN ST	Brownsville	102	CITE ISSUED - AGGRESSIVE DRIVER
122990365	10/25/12	18:45:03	DOG COMPLAINT	1022	OAK ST	Brownsville	014	No Additional Report Necessary
122980130	10/24/12	10:53:52	DEATH INV	715	TEMPLETON ST	Brownsville	001	Incident Report
122970252	10/23/12	15:15:02	GANG GRAFFITTI	708	ASH ST	Brownsville	014	No Additional Report Necessary
122960328	10/22/12	20:54:58	SUSP-VEHICLE	811	N MAIN ST	Brownsville	014	No Additional Report Necessary
122960264	10/22/12	17:20:50	Trf Equipment Viol	600	N MAIN ST	Brownsville	072	WARNING - MOVING VIOLATION
122960238	10/22/12	16:07:41	Trf Citz Compl	990	WASHBURN ST	Brownsville	014	No Additional Report Necessary
122950294	10/21/12	23:31:13	TRAFF-OTHER VIOL	1120	ASH ST	Brownsville	001	Incident Report
122950249	10/21/12	19:50:49	DISTB-DOMESTIC	1120	ASH ST	Brownsville	014	No Additional Report Necessary
122950227	10/21/12	18:41:06	DISPUTE-NEIGHBOR	1030	OAK ST	Brownsville	001	Incident Report
122940263	10/20/12	18:47:51	ASST-OUTSIDE AGENCY	1160	OAK ST	Brownsville	014	No Additional Report Necessary
122940260	10/20/12	18:40:56	Trf Moving Viol	800	W BISHOP WY	Brownsville	072	WARNING - MOVING VIOLATION
122940249	10/20/12	18:18:11	Trf Speed Viol	200	KIRK AV	Brownsville	093	CITE ISSUED - MOVING VIOLATION
122940125	10/20/12	11:01:13	ALARM - POLICE	204	N MAIN ST	Brownsville	014	No Additional Report Necessary
122940061	10/20/12	5:50:35	Trf Speed Viol	100	HAUSMAN AV	Brownsville	070	WARNING - SPEEDING VIOLATION
122930163	10/19/12	13:31:49	JUV-COMPLAINT	100	E BLAKELY AV	Brownsville	014	No Additional Report Necessary
122920012	10/18/12	0:55:48	SUSP-VEHICLE	990	WASHBURN ST	Brownsville	014	No Additional Report Necessary
122910341	10/17/12	16:51:13	DISPUTE-NEIGHBOR	366	KIRK AV	Brownsville	014	No Additional Report Necessary
122910081	10/17/12	7:17:12	Trf Speed Viol	220	S MAIN ST	Brownsville	070	WARNING - SPEEDING VIOLATION
122910017	10/17/12	1:19:06	Trf Observe Susp Activity	200	PARK AV	Brownsville	073	WARNING - SUSP VEHICLE/ACTIVY

PATRL\_RPT#2 City Incident Report

CAD Call#	ENTRY DATE	ENTRY TIME	CALL DESCRIPTION	STREET #	ADDRESS	CITY	DIS POS	DESCRIPTION
122880267	10/14/12	19:55:24	Trf Speed Viol	100 S MAIN ST		Brownsville	100	CITE ISSUED - DWS/NO ODL
122880085	10/14/12	8:15:20	ANIMAL - DEER	200 PARK AV		Brownsville	014	No Additional Report Necessary
122870255	10/13/12	17:57:57	Trf Equipment Viol	100 STANARD AV		Brownsville	071	WARNING - EQUIPMENT VIOLATION
122870109	10/13/12	10:16:43	DOG COMPLAINT	1022 OAK ST		Brownsville	014	No Additional Report Necessary
122870035	10/13/12	2:43:07	ALARM - POLICE	220 S MAIN ST		Brownsville	014	No Additional Report Necessary
122870027	10/13/12	2:05:24	ALARM - POLICE	220 S MAIN ST		Brownsville	014	No Additional Report Necessary
122860394	10/12/12	23:14:44	ALARM - POLICE	220 S MAIN ST		Brownsville	014	No Additional Report Necessary
122860270	10/12/12	16:58:24	DISTB-ARMED	529 ROBE ST		Brownsville	001	Incident Report
122850331	10/11/12	19:21:00	PARKING COMPL	310 WALNUT AV		Brownsville	014	No Additional Report Necessary
122850073	10/11/12	8:20:32	Trf Speed Viol	100 E BISHOP WY		Brownsville	070	WARNING - SPEEDING VIOLATION
122840222	10/10/12	15:05:22	INFORMATION REQUEST/F	1022 OAK ST		Brownsville	180	MDT Narrative Update
122840193	10/10/12	13:52:38	DOG COMPLAINT	1022 OAK ST		Brownsville	014	No Additional Report Necessary
122830159	10/09/12	11:47:10	WELF CHECK	1001 KIRK AV		Brownsville	014	No Additional Report Necessary
122830064	10/09/12	6:43:25	DOG COMPLAINT	380 SPAULDING AV		Brownsville	014	No Additional Report Necessary
122820322	10/08/12	21:17:17	WARRANT SERV	220 S MAIN ST		Brownsville	014	No Additional Report Necessary
122800339	10/06/12	21:38:34	ASST-PERSON	111 W BLAKELY AV		Brownsville	014	No Additional Report Necessary
122790345	10/05/12	19:58:26	NARCOTICS OFF	200 N MAIN ST		Brownsville	014	No Additional Report Necessary
122790320	10/05/12	18:44:36	ASSAULT REPORT	100 KIRK AV		Brownsville	014	No Additional Report Necessary
122790241	10/05/12	15:15:31	SUSP-VEHICLE	200 PARK AV		Brownsville	014	No Additional Report Necessary
122790002	10/05/12	0:03:22	JUV-COMPLAINT	100 E HWY 228		Brownsville	014	No Additional Report Necessary
122780224	10/04/12	15:15:56	SUSP-PERSON	200 N MAIN ST		Brownsville	014	No Additional Report Necessary
122770375	10/03/12	22:48:39	Trf Aggressive Driver	800 LOUCKS WY		Brownsville	102	CITE ISSUED - AGRRESSIVE DRIVER
122770349	10/03/12	21:03:44	Trf Moving Viol	380 KIRK AV		Brownsville	071	WARNING - EQUIPMENT VIOLATION



## Public Works Report November 20, 2012

Karl Frink, Public Works Superintendent

### Water:

- *Billing Support*- Follow through on customer service support and requests.
- *Meter reading* – Water meters have been read for the month of November.
- *Distribution System* – Three small water leaks and two main line leak repairs this month. One main line leak was located on Kisling Ave and the other on Templeton St. Both leaks were on 2 inch lines.
- *Cross Connection Program*- I continue to work on the annual inspections of the water system to identify and correct any unsafe condition that may exist.
- *Water Treatment Plant* –The emergency response plan and operations and maintenance manual are under construction. All of the quality control instruments have been cleaned and calibrated. A clogged soda ash line has been replaced.
- *Oak Street Project*- M.L. Houck construction worked on the punch list generated by the City and Erwin Consulting. The City and Erwin Consulting will meet the week of November 26 to review the repaired items.

### Sewer:

- *North Lagoons* – The irrigation system has been winterized for the year. The flow and pH meter will be calibrated during the week of November 26 in addition to preparations for river discharging.
- *South Lagoons*- The flow and pH meters are scheduled to be calibrated the week of November 26th. All of the equipment is being cleaned and prepared for winter discharging from this facility.
- *Collection System*- We had one sewer odor concern this month. The system was inspected around the suspected odor concern, but no odors or problems were detected. Preparations are under way to clean and video inspect portions of the collection system for any begin to clean and video inspect the older portions of the collections system to identify areas in need of repair and/or maintenance work. This work is best performed in the winter time when the water table is up, so Inflow and Infiltration can be located and identified for repair.
- *Misc.*- The City has received a draft of our new NPDES permit and has been reviewed by Westech Engineering and City staff. A few items have been identified for correction and we will be submitting those requests to DEQ for correction .

### Streets:

- *Mowing/Tree Maintenance* – Tree maintenance continues on an as needed basis.
- *Asphalt/ Gravel Road Maintenance* – Public works will be grading the gravel streets in town in the next few weeks.
- *Storm Drainage* – No additional drainage work has been done at this time. We have completed weed-eating the ditches and right-of-ways through-out town.
- *Signs*- Several sign posts and signs have been straightened and adjusted as needed.

### Parks:

- *Pioneer Park* –Pioneer Park was closed up for the season on October 31st. All of the facilities have been winterized, roads blocked off and winter signage posted. Leaf



clean up is scheduled to begin in early December. The roofs and gutters have been cleaned.

- *Blakely Park* – This park has been winterized and leaf clean-up has begun.
- *Kirk's Ferry Park* – This park has been winterized and leaf clean-up has begun.
- *Remington Park*- This park has been winterized and leaf clean-up has begun.

#### **Cemetery:**

- *Grounds* – The cemetery was mowed and weed-eated in preparation for Veteran's Day. One site was marked for a burial this month.

#### **Library:**

- *Grounds*- This facility is mowed and maintained as needed. The gutters have been cleaned and leaf clean-up is under way.
- *Buildings*- Several items have been repaired and new shelves built in the Kirk Room. There are still a few requested repairs to be made.

#### **Downtown**

- *Restrooms* – This facility is cleaned every Friday, or more often needed. We will be cleaning up leaves from this area this up-coming month.
- *Garbage cans* – Down town garbage cans are emptied every Friday, or more frequently as noticed.
- *Parking Lot* – This area is kept clean as needed. We will be cleaning up leaves this up-coming month.
- *Misc.* – Public Works will begin power washing the sidewalks around all of the facilities upon completion of leaf clean-up.

#### **City Hall:**

- *Buildings*- Nothing to report at this time..
- *Grounds* – The leaves are scheduled to be cleaned up this month.
- *Community Center*- Nothing to report at this time.

#### **Rec. Center:**

- *Grounds*- The leaves are scheduled to be cleaned up this up-coming month.
- *Buildings*- Public works will be painting the new gutters soon if weather allows. The emergency exit sign lights were found to not be working and been repaired. One window pane was replaced.

#### **Public Works:**

- *Grounds*- Leaf clean-up has begun.
- *Buildings*- Public works has been doing some cleaning and reorganizing around the shop. Old, non-useable items are being purged out and updated as needed.
- *Misc.* – Preventative maintenance is being performed on all the vehicles and equipment. All of the equipment at public works has been repaired and ready for use.
- Training for the new employees continues. Both new employees are learning the variety of tasks that we perform on a regular basis.



**To:** Brownsville City Council  
**From:** Bill Sattler, City Planner

November 20, 2012

1. Building Permits. The last month has been very quiet.
2. Real Estate. I've been working with an appraiser regarding the Olsen property off Washburn that was proposed for a large subdivision some years ago. Apparently it's been taken back by the bank financing it and they're trying to do an appraisal. The appraiser is having a problem as there has not been any sales of comparable land recently so he can't do any comparisons. Apparently the larger cities such as Salem, Eugene and Portland are still doing fairly well on the real estate market but he says all the smaller cities are pretty much at a standstill. Locally, I can say that the last unsold lot on Filbert Court has been for sale since the subdivision was built. It started at \$60,000 and is now reduced to around \$20,000 (asking price) and has been for sale at that price for the last year or so. I spoke with a person who just bought 404 W. Bishop Way, the house near the mobile home park with the huge tree that goes over the highway. It was a foreclosure and he told me he paid \$35,000 for it, so there are some real opportunities out there for someone looking for an affordable home.
3. Planning Commission. The Planning Commission met earlier in the month to consider a variance application and approved the proposal without modification. Applicants propose to create three legal lots with the plan to develop two of them and hold onto the third for the future. This will be done on a 3.76 acre parcel located behind 610 Washburn on what is now bare land.
4. 2013 TMDL Review. I've been contacted by DEQ regarding doing a "progress review" of our TMDL implementation next year. Frankly, some of the stuff they want is absurd for a town of our size and I expect we'll be in a protracted fight with them over it as their standards are written for cities the size of Eugene and Corvallis. About all we can do is try to wear them out and make it more work than it's worth for them to harass us any further (since none of this is actually law, it's just agency policy they make up as they go along). Just for one example, they want us to pass an ordinance requiring everyone to immediately pick up animal waste, *anywhere in the city including in their back yard*, or be fined. They would also like us to set up a monitoring program to measure the tree canopy near the river so we can find anyone who cuts down a tree and prosecute them (under a new ordinance they want us to adopt). Another ~~good~~ idea run amuck.
5. Accounts Payable. As I reported earlier, I took over the accounts payable end of the financial work and it has been taking up a very large portion of my time, primarily I'm sure due to the learning curve making things much more difficult than they probably should be. It's going pretty well with no major disasters so far.



## *Library Advisory Board*

### *Librarian's Report*

*October 2012*

October ended in an exciting way! Our Children's Halloween Party was a huge success with 41 participants! Staff and I had to hurriedly get the Kirk Room ready for more children than were expected. It was a wonderful dilemma to have. During Downtown Trick or Treat we had about 180 people visit the library in 4 hours. The 3½ pound bag of candy I bought had only three pieces left.

In October we had an average of 58 visitors each day. I answered over 25 reference questions. A reference question is not 'where do I find this book' or answering 'what should I read?' These questions involved how to use the computer, internet help, help with homework assignments, and the like. Story Time continues to grow. This month there were 97 participants in our two programs. Such a delightful group of youngsters!

The class Genealogy for Beginners is scheduled for Friday, November 16 from 11 – 1 pm. We currently have two more spaces available before we have full attendance. The Friends of the Library are planning a Book Sale. Be on the lookout for flyers that are being distributed around town. The Sale is scheduled to begin Saturday, December 1 and continue during normal Library hours through Saturday, December 8.

Here are a few facts about our library the month of October 2012. We have received 59 new books for the library. Volunteers donated 161.25 hours to our library. There were 1,472 materials checked out. 548 Fiction books; 215 Non-Fiction books; 101 Audio books; 244 Children's books; 231 Junior books; 36 junior reference books and 97 Large Print books.

Respectfully submitted,  
Sherri Lemhouse,  
Librarian

ORDINANCE NO. ~~661~~ (736)

AN ORDINANCE RELATING TO SOLID WASTE MANAGEMENT IN THE CITY OF BROWNSVILLE, OREGON, INCLUDING BUT NOT LIMITED TO GRANTING TO WASTE CONNECTIONS OF OREGON, INC. D/B/A SWEET HOME SANITATION SERVICE, INC. THE EXCLUSIVE FRANCHISE TO COLLECT, TRANSPORT, AND CONVEY SOLID WASTE OVER AND UPON THE STREETS OF THE CITY, AND TO RECYCLE, REUSE, DISPOSE OF, OR RECOVER MATERIALS OR ENERGY FROM SOLID WASTE; CREATING NEW PROVISIONS; REPEALING ORDINANCE NO. ~~66142~~ AND PORTIONS OF OTHER ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND DECLARING AN EMERGENCY.

THE CITY OF BROWNSVILLE ORDAINS AS FOLLOWS:

**Section 1: Short Title.** This Ordinance shall be known as the "Solid Waste Management Ordinance", it may be so cited and pleaded, and it shall be referred to herein as "this Ordinance".

**Section 2: Policy, Purpose, and Scope.** It is declared to be the public policy of the City to regulate solid waste management to accomplish the following:

- 2.1. Ensure safe, economical, financially stable, reliable, and comprehensive solid waste service;
- 2.2. Ensure rates that are just, fair, reasonable, and adequate to provide necessary public service and to prohibit rate preferences and other discriminatory practices;
- 2.3. Provide technologically and economically feasible resource recovery by and through the franchisee; and
- 2.4. Provide the opportunity to recycle.

**Section 3: Definitions.**

"Administrator" means the City Administrator of the City or the City Administrator's designee.

"City" means the City of Brownsville, Oregon, and the local government of that name.

"can" means a receptacle owned by a customer, not to exceed 32 gallons.

"compensation" means and includes:

- (a) Any type of consideration paid for service, including but not limited to rent, the proceeds from resource recovery, and any direct or indirect provision for payment of money, goods, services, or benefits by tenants, lessees, occupants, or similar persons;

- (b) The exchange of service between persons; and
- (c) The flow of consideration from the person owning or possessing the solid waste to the person providing service, or from the person providing service to the person owning or possessing the same.

**"container"** means a receptacle, at least 1-yard capacity, emptied into a collection vehicle, and provided by the franchisee.

**"Council"** means the City Council of the City.

**"franchisee"** means the person granted the franchise by Section 4 of this Ordinance, or a subcontractor to that person.

**"person"** means an individual, partnership, association, corporation, trust, firm, estate, or other private legal entity.

**"recover resources"**, and **"resource recover"** and **"resource recovery"** means the process of obtaining useful material or energy resources from solid waste, including energy recovery, materials recovery, recycling, or reuse of solid waste.

**"service"** means storage, collection, transportation, treatment, utilization, processing, and final disposal of, or resource recovery from, solid waste; and providing facilities necessary or convenient to those activities.

**"solid waste"** means all putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, swill, waste paper and cardboard, yard debris, residential, commercial, and industrial demolition and construction wastes, discarded residential, commercial, and industrial appliances, equipment, and furniture, discarded, inoperable, or abandoned vehicles or vehicle parts, and vehicle tires, manure, vegetable or animal solid or semisolid waste, dead animals, and all other wastes not excepted by this Ordinance. Solid waste does not include:

- (a) Hazardous wastes as defined by or pursuant to ORS 466.005;
- (b) Sewer sludge and septic tank and cesspool pumping or chemical toilet waste; or
- (c) Reusable beverage containers as defined in ORS 459.860.

**"solid waste management"** means management of service.

**"waste"** means material that is no longer usable by or that is no longer wanted by the last user, producer, or source of the material, which material is to be disposed of or be resource recovered by another person.

"yard debris" means grass clippings, leaves, hedge trimmings, and similar vegetable waste generated from residential property or landscaping activities but does not include rocks, soil, concrete, stumps, or similar bulky wood materials.

**Section 4: Exclusive Franchise and Exceptions.**

- 4.1 There is hereby granted to Waste Connections of Oregon, Inc. d/b/a Sweet Home Sanitation Service, Inc. the exclusive right, privilege, and franchise to provide service in, and for that purpose to use the streets and facilities of, the City.
- 4.2 Except for the franchisee, and except as otherwise specifically provided in this Ordinance, it shall be unlawful for any person to~~no person shall~~:
- 4.2.1 Provide service for compensation, or offer to provide, or advertise for the performance of service for compensation;
  - 4.2.2 Provide service for compensation to any tenant, lessee, or occupant of any real property of the person.
- 4.3 Solid waste, whether or not source-separated, and including recyclable material, placed out for collection by the customer, is the property of the franchisee. No person shall remove solid waste placed out for collection and resource recovery by the franchisee. No person (other than franchisee or the owner of the can in question) shall place material in or remove material from a container or can. No person (other than franchisee or the owner of the can in question), including, without limitation, any person acting or purporting to act as an agent for the owner of the can in question, shall climb into or otherwise enter a container or can.
- 4.4 Nothing in this Ordinance shall prohibit any person from transporting solid waste he produces himself to an authorized disposal site or resource recovery facility providing he complies with Section 9 of this Ordinance. Solid waste produced by a tenant, licensee, occupant, or similar person is produced by the person, not the landlord or property owner.
- 4.5 The franchisee shall have the right, until receipt of written notice revoking permission to pass is ? delivered to the franchisee, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting solid waste pursuant to this Ordinance.
- 4.6 The exclusive right, privilege, and franchise to provide service in granted to franchisee by this Ordinance shall extend to all land within the corporate limits of the City. Any land annexed to the City during the term of this Ordinance shall automatically be subject to this Ordinance, and the franchisee shall have the exclusive right, privilege and franchise to provide service to property in any land so annexed. Upon annexation, the

franchisee shall contact the property owners of the newly annexed land and arrange for service.

**Section 5: Franchise Term and Renewal.**

- 5.1 The rights and privileges and franchise herein granted begin October 5, ~~1998~~2012, and shall continue and be in full force for a period of 6 years, ~~to and including October 5, 2004~~, subject to the terms and conditions of this Ordinance.
- 5.2 Unless the Council acts to terminate further renewals of the franchise, on each October 5<sup>th</sup>, the franchise shall be renewed annually for a term of 6 years from each such annual renewal.

**Section 6: Indemnification and Insurance.**

- 6.1 The franchisee shall indemnify and save harmless the City and its officers, agents and employees from any and all loss, cost, and expense arising from damage to property and from injury to or death of persons to the extent caused by ~~due to any~~ wrongful or negligent act or omission of the franchisee, its agents, or employees in exercising the rights, privileges, and franchise hereby granted.
- 6.2 None of the rights granted by this franchise shall be exercised by the franchisee until it shall supply the City with a certificate or a policy of commercial general liability insurance in a form approved by the City and naming the City as an additional insured for \$5,000,000 in combined single limit coverage for each occurrence of personal liability and property damage.

**Section 7: Rates.**

- 7.1 Rates for service shall be as in the attached Exhibit A, by this reference hereby incorporated in this Ordinance; provided, however, that such will not become effective until the rates have been set by a formal resolution of Council. Except as otherwise provided in this Section 7, ~~Changes~~ in rates shall be made only by an ordinance amending Exhibit A.
- 7.2 The franchisee shall not give any rate preference to any person, locality, or type of solid waste stored, collected, transported, disposed of, or resource recovered. This Section shall not prohibit uniform classes of rates based upon length of haul, type or quantity of solid waste handled, and location of customers so long as those rates are reasonable based upon costs of the particular service and are approved by the Council in the same manner as other rates, nor shall it prevent any person from volunteering service at reduced costs for a charitable, community, civic, or benevolent purpose.
- 7.3 Disposal or service cost increases established by a unit of local government having jurisdiction or by the owner of the applicable disposal site may be ~~immediately passed~~

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on to customers following a thirty (30) day notice of such increases to effected customers.

7.4 In addition to the foregoing, the rates for service described above shall be automatically adjusted annually, effective January 1st of each year during the term of this Ordinance, commencing on January 1, 2013, based on the annual average increase or decrease, if any, of the Consumer Price Index – All Items – for Portland-Salem, OR-WA, as published by the United States Bureau of Labor Statistics (<http://data.bls.gov>) (the “CPI”) during the most recent twelve (12) month period ending no later than December 31st of the calendar year preceding the upcoming year. Thus, if the CPI increased three percent (3%) from the annual average of 2011 to the annual average of 2012 then the rates for service would automatically be subject to a three percent (3%) increase effective as of January 1, 2013. In the event the CPI index is no longer published, the parties shall confer in good faith to select an alternative index and shall confirm their agreement on a substitute index in writing. If the parties are unable to agree on a substitute index, either party may submit the selection of the substitute index to binding arbitration before a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. All percentages shall be computed to the third decimal place and the change in the rates for service shall be calculated to the nearest cent (\$.01).

7.5 In addition to the adjustment mechanisms set forth above, the franchisee may request an adjustment to the rates for service, under the following extraordinary circumstances: (i) any changes in existing, or adoption of new, federal, state, local or administrative laws, rules or regulations that result in an increase in the franchisee’s costs, including but not limited to the imposition of new or the increase to existing governmental, regulatory or administrative taxes or fees; and (ii) in the event that unforeseen circumstances arise which materially affect the franchisee’s costs or revenues under this Ordinance, including but not limited to extraordinary increases in the cost of fuel. The franchisee’s application for an extraordinary rate adjustment shall include a statement of the amount of the requested rate adjustment, the basis there for, and all financial and other records on which the franchisee relies for its claim that the franchisee’s costs have increased. City staff shall promptly review the franchisee’s rate application and notify the franchisee if its application is complete or whether City staff wishes to review and/or audit any additional documents or information reasonably related to the requested increase before submitting the matter to the Council for its consideration. Rate adjustments made under this subsection 7.5 may be requested by the franchisee at any time during the course of an operating year. The Council shall review and consider approval of adjustment requests under this Section 7.5 in its discretion; provided, however, that such approval shall not be unreasonably withheld, conditioned or delayed. The Council shall review and consider such requests within a reasonable period of time after the complete submittal by the franchisee of its application for an extraordinary rate adjustment and after the City has had a reasonable period of time to request, review and audit any applicable financial records of the franchisee. The Council may grant the franchisee’s requested rate adjustment or, based on the information

presented, increase or decrease the rates for service in amounts differing from the franchisee's request. The adjusted rates, if approved by the Council, shall go into effect immediately after customers have received a thirty (30) day notice of such approval.

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7.6 In an effort to defray the costs incurred by the franchisee for providing its services under this Ordinance, the franchisee shall be entitled to receive and retain all revenues, if any, from the sale of recyclable material received by the franchisee from its customers.

~~7.6 As further compensation to the franchisee for its services under this Ordinance, the franchisee shall be entitled to receive and retain all revenues, if any, from the sale of recyclable material received by the franchisee from its customers.~~

**Section 8: Franchise Consideration.** In consideration of the franchise, and in lieu of a franchise fee, the franchisee shall provide pickup service to any public facility of the City, excluding employees, other than resident caretakers, or City personnel's personal household waste. The franchisee shall also provide an annual spring clean-up, at no cost to the City, within City limits. The franchisee is not exempt from any general license fee or tax of the City imposed on all businesses.

**Section 9: Franchisee Responsibility.** The franchisee shall:

- 9.1 Dispose of solid wastes collected at a site approved by the local government unit having jurisdiction of the site or recover resources from the solid wastes, both in compliance with Chapter 459, Oregon Revised Statutes, and regulations promulgated thereunder.
- 9.2 Provide the opportunity to recycle consistent with ORS Chapter 459 and regulations promulgated thereunder.
- 9.3 Within 30 days after the effective date of this Ordinance, file with the City Recorder a written acceptance of this franchise,
- 9.4 Provide sufficient collection vehicles, containers, facilities, personnel, and finances to provide all types of necessary service or subcontract with others to provide the service pursuant to Section 14 of this Ordinance. Where one or a few large customers require substantial investment in new or added equipment not otherwise necessary to service the franchised service area, the franchisee may require a contract with those sources providing that the customer will require and pay for service for a reasonable period of time. This contract exception is intended to assist in financing the necessary equipment and in protecting the integrity of the remaining service should the source or sources terminate collection service.
- 9.5 Respond to any written complaint on service.
- 9.6 Every three years provide a franchise report to the City. City staff and the franchisee shall work together in good faith to determine the contents of such franchise report.

**Section 10: Public Responsibility.** In addition to compliance with ORS Chapters 459 and 459A and regulations promulgated thereunder:

- 10.1 To prevent recurring back and other injuries to collectors and other persons and to comply with safety instructions to collectors from the State Accident Insurance Fund:
  - 10.1.1 All customers who subscribe to franchisee's residential rollcart collection service shall use rollcart containers furnished by the franchisee only. All such containers shall remain the property of the franchisee.
  - 10.1.2 To allow proper use of franchisee's pickup equipment for rollcart containers, all residential customers shall, whether on collection days or for on-call service, place all containers at the street, curb, or other pickup point designated by the franchisee. Containers shall not be loaded beyond the manufacturer's recommended maximum load weight.
  - 10.1.3 If any disabled residential customer (with a DMV disabled-parking certification, physician's letter, or other reasonable certification of disability) is unable to roll the container to the street or curb, the franchisee will pick up the container at the customer's residence at the same rate as curb service. All such containers shall remain the property of the franchisee. Any other customer who wants the container picked up at a location other than the curb shall, at franchisee's request, specify the location in writing. The location must be visible from the street. The franchisee may charge an additional fee for non-curbside service.
  - 10.1.4 Except when containers are furnished by the franchisee to residential customers, under sub-section 10.1.1, cans may be provided by customers and shall not exceed 60 pounds gross loaded weight or 32 gallons in size. Only round cans shall be used. Cans shall be tapered with a smaller bottom than top opening, shall have handles at the top, and shall have a place for a handhold at the bottom.
  - 10.1.5 Sunken receptacles shall not be used.
  - 10.1.6 All containers, including containers furnished by the franchisee to residential customers under sub-section 10.1.1., shall be rigid, rodent-proof, and approved by the franchisee.
  - 10.1.7 The user shall provide safe access to the pickup point, so as not to jeopardize the safety of the driver of a collection vehicle or the motoring public or to create a hazard or risk to the person providing service. Where the Council finds that a private bridge, culvert, or other structure or road is incapable of safely carrying the weight of the collection vehicle, the collector shall not enter onto the structure or road. The user shall provide a safe alternative access point or system.

- 10.2 To protect the privacy, safety, pets, and security of customers and to prevent unnecessary physical and legal risk to the collector, a residential customer shall place the container to be emptied outside of any locked or latched gate and outside of any garage or other building.
- 10.3 Any vehicle used by any person to transport solid wastes shall be so loaded and operated as to prevent the wastes from dropping, shifting, leaking, blowing, or other escapement from the vehicle onto any public right-of-way or lands adjacent thereto.
- 10.4 Any person who receives service shall be responsible for payment for the service. When the owner of a single or multiple dwelling unit or mobile home or trailer space has been notified in writing by the franchisee of his contingent liability, the owner shall be responsible for payment for service provided to the occupant of the unit if the occupant does not pay for the service.

**Section 11: Supervision.** Service provided under the franchise shall be under the supervision of the Administrator. The franchisee shall, at reasonable times, permit the Administrator's inspection of its facilities, equipment, and books and records related to its charges, rates, and receipts.

**Section 12: Suspension, Modification or Revocation of Franchise.**

- 12.1 Failure to comply with a written notice to provide necessary service or otherwise comply with the provisions of this Ordinance after written notice and a reasonable opportunity to comply shall be grounds for modification, revocation, or suspension of the franchise.
- 12.2 After written notice from the Council that those grounds exist, the franchisee shall have 30 days from the date of mailing of the notice in which to comply (or commence compliance, if such failure to comply is not capable of being cured within 30 days) or to request a public hearing before the Council.
- 12.3 If the franchisee fails to comply within the specified time or fails to comply (or commence compliance, if applicable) with the order of the Council entered upon the basis of findings at the public hearing, the Council may suspend, modify, or revoke the franchise or make that action contingent upon continued non-compliance.
- 12.4 At a public hearing, the franchisee and other interested persons shall have an opportunity to present oral, written, or documentary evidence to the Council.
- 12.5 If the Council finds an immediate and serious danger to the public through creation of a health hazard, it may take action within a time specified in the notice to the franchisee and without a public hearing prior to taking that action.

**Section 13: Preventing Interruption of Service.** Whenever the Council determines that the failure of service or threatened failure of service would result in creation of any immediate and

serious health hazard or serious public nuisance, the Council may, after a minimum of 24 hours' actual notice to the franchisee and a public hearing if the franchisee requests it, authorize another person to temporarily provide the service or to use and operate the land, facilities, or equipment of the franchisee through leasing to provide emergency service. ~~The Council shall return any seized property and business upon abatement of the actual or threatened interruption of service.~~

**Section 14: Termination of Service.** The franchisee shall not terminate service to all or a portion of its customers unless:

- 14.1 The street or road access is blocked and there is no alternate route; provided, however, the City shall not be liable for any such blocking of access;
- 14.2 Excessive weather conditions render providing service unduly hazardous to persons providing service, or the termination is caused by accidents or casualties caused by an act of God or a public enemy; or
- 14.3 A customer has not paid for service provided after a regular billing, or does not comply with franchisee's reasonable policies as in effect from time to time.

**Section 15: Subcontracts.** The franchisee may subcontract with others to provide a portion of the service where the franchisee does not have the necessary equipment for service. Such a subcontract shall not relieve the franchisee of total responsibility for providing and maintaining service and from compliance with this Ordinance.

**Section 16: Transfer of Franchise.** The franchisee shall not transfer the franchise or any portion of it to other persons without the prior written approval of the Council, which consent shall not be unreasonably withheld. The Council shall approve the transfer if the transferee meets all applicable requirements met by the original franchisee.

**Section 17: Interpretation.** Any interpretation or finding by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other provision of this Ordinance.

**Section 18: Enforcement.** The City shall enforce the provisions of this Ordinance by administrative, civil, or criminal action as necessary to obtain compliance with this Ordinance. Following written notice by the franchisee to the Administrator of a violation of any provision of this Ordinance, the City shall have seven days in which to commence enforcement action(s) against the violator(s) identified in the franchisee's notice. In the event the City fails to commence enforcement action(s) against the violator(s), the City shall pay to the franchisee a penalty payment of \$100 per day for each day after the initial seven-day period. Notwithstanding the foregoing, the franchisee may independently enforce the exclusivity provision of this Ordinance against third-party violators, including but not limited to seeking injunctive relief and/or damages, and the City shall use good-faith efforts to cooperate in such enforcement actions brought by the franchisee. ~~Section 18: City Enforcement.~~ The City

~~shall enforce the provisions of this Ordinance by administrative, civil, or criminal action as necessary to obtain compliance with this Ordinance. The franchisee may independently enforce the exclusivity provision of this Ordinance against third party violators, including but not limited to seeking injunctive relief and/or damages, and the City shall use good faith efforts to cooperate in such enforcement actions brought by the franchisee.~~

**Section 19: Arbitration.**

19.1 If any controversy regarding language of this Ordinance, performance thereof, or negotiation of rates, charges, and frequency of service cannot be settled by the parties, the controversy shall be submitted to arbitration. Either party may request arbitration by providing written notice to the other. If the parties cannot agree on a single arbitrator within 10 days from the giving of notice, each party shall within 5 days thereafter appoint one arbitrator. The two arbitrators shall immediately select an impartial third arbitrator to complete a three-member panel. If either party fails to select an arbitrator, the other party may petition the Chief Judge of the Circuit Court of Linn County for designation of the arbitrator. The arbitration shall be conducted in accordance with ORS 36.300 *et seq.*, or the provisions of any successor statute. In preparation for the arbitration hearing, the parties shall have the rights of pre-trial discovery as supervised by the arbitrator(s).

19.2 The cost of the arbitrator or arbitration panel shall be shared equally by the franchisee and the City.

**Section 20: Attorney's Fees.** If any arbitration, action, or enforcement proceedings or appeal thereof is instituted in connection with any controversy arising out of this Ordinance, the performance of the rights and obligations herein, or the failure to perform, the prevailing party shall be entitled to recover, in addition to costs and disbursements, such sum as the person or body rendering the decision may adjudge reasonable as attorney's fees.

**Section 21: Notice.** Any notice required by this Ordinance shall be delivered in writing by personal service upon an officer of the City or franchisee or by certified mail addressed to the City at:

City of Brownsville  
P. O. Box 188  
Brownsville, Oregon 97327

or to the franchisee at:

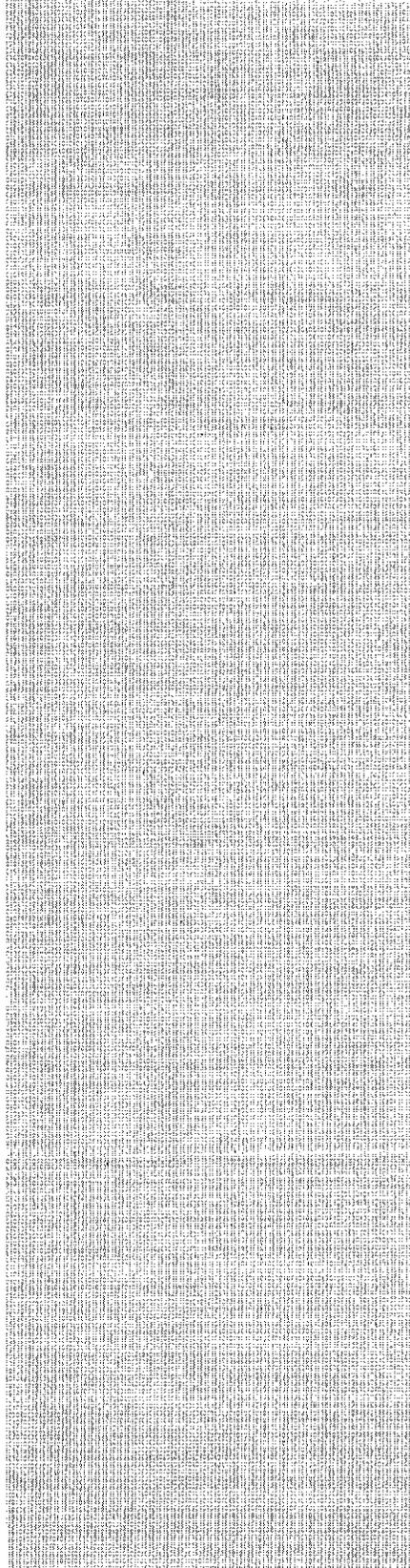
~~Waste Connections of Oregon, Inc. d/b/a Sweet Home Sanitation Service, Inc.~~  
P.O. Box 40  
Sweet Home, Oregon 97386



**EXHIBIT A**

**Rates for Service**

[To be attached.] (To be done as Resolutions of Council...)



## ***Memorandum of Understanding***

BETWEEN: City of Brownsville (City)  
AND: Brownsville Art Association (BAA)  
DATE: November 27<sup>th</sup>, 2012

### **RECITALS**

- A. BAA is interested in entering into a Memorandum of Understanding with the City to utilize the converted fire bays at 255 N. Main Street for BAA purposes.
- B. City believes that BAA provides a valuable public service and desires to provide the above mentioned space to support their mission and work in the community.

FOR AND IN CONSIDERATION OF THE MUTUAL OBLIGATION  
HEREIN, THE PARTIES AGREE:

**USE OF SPACE.** BAA will be allowed to use the portion of City Hall commonly known as the Art Center for the purpose of providing a hub for community and area artists by not only providing a place for arts education and group meetings, but a public demonstration space for local artists to come together and create art and share their art with the community.

**Due to the fundamental occupancy change from the initial Memorandum, the BAA will be responsible for providing insurance as defined un LIABILITY INSURANCE.**

**PUBLIC USE.** BAA agrees to manage the Art Center without regard to race, color, sex, religion, age, national origin, or physical or mental handicap, and to charge for use of the Art Center only on the basis of a written rate schedule available to the public.

**LIABILITY INSURANCE.** Operator shall maintain in force for the duration of this contract an insurance policy providing comprehensive protection for all accidents or injuries which may occur during BAA's use of the Art Center, written as a primary policy, not contributing with or in excess of any coverage which City may carry. Such policy shall have coverage of not less than \$300,000 per occurrence for bodily injury or personal injury, and \$50,000 per occurrence for property damage, with an aggregate of \$300,000 for bodily injury, personal injury or property damage. The policy shall also contain an endorsement naming City as an individual insured and expressly providing that the interest of City shall not be affected by BAA's breach of policy provisions. A copy of each policy or a certificate satisfactory to City shall be delivered to City prior to commencement of this Agreement. Such policy shall be written on an "occurrence" form with an admitted insurance carrier licensed to do business in the State of Oregon and shall contain

## **Memorandum of Understanding**

an endorsement entitling City to not less than thirty (30) days prior written notice of any material change, non-renewal or cancellation. Failure to maintain any insurance coverage required by this Agreement shall be cause for immediate termination of this Agreement by City.

The City shall provide the following payments to cover & defray the insurance costs as follows:

Year 1	\$500
Year 2	\$350
Year 3	\$200

The Association will be responsible for covering any deductible associated with any and all claims.

**SCHEDULING.** BAA will coordinate activities in the space. BAA will communicate activities and uses with City Hall for administrative purposes.

The space will be available for the *Santiam Spokes Bicycle Club (Early Summer)*.

**FEES.** BAA will contribute \$50 per month in 2013 and continue to make a monthly contribution based on their business plan, as funds allow, to help cover operational costs such as heat and electricity.

**SUBLETTING.** BAA shall have the right to sublet or sub-lease portions of the Art Center. BAA shall be solely responsible for the subletting/rental agreement, insurance and compensation for the space provided to any third party. BAA shall require the third party to provide appropriate documentation including but not limited to insurance coverage for property and liability. Any agreements with third parties are done at the sole risk of the BAA. BAA further agrees to hold the City harmless from any claims made by any third party contract or agreement as it pertains to the use of the facility.

**IMPROVEMENTS.** The following is a list:

- ♦ *The City may make improvements to the front of the Art Center.*
- ♦ *2012 Flooring Project – BAA has been approved by Council to install a tile floor in the Art Center. BAA is gifting this project to the City for their continued support of the Arts in the community. BAA will make sure risers are properly installed, provide specifications for the sealant used, purchase additional tiles in case of breakage and have agreed to provide maintenance for the floor during their use of the Art Center.*

**PROPERTY.** Any theft or damages incurred to the furniture, any personal items or supplies shall be the sole responsibility of the BAA. Cleaning of the space shall be provided by the groups using the space and ultimately the responsibility of the BAA.

## ***Memorandum of Understanding***

**SIGNAGE.** Any directional signage or identification signage shall be the responsibility of the BAA. The City reserves the right of approval before any modifications are made.

**TERM.** The term of this Memorandum shall commence upon execution hereof and shall continue for a period of three years to be revisited and renegotiated in November 2015. The BAA shall provide a written or oral progress report annually.

**ENTIRE AGREEMENT.** This document embodies the entire agreement between the parties. There are no promises, terms, conditions or obligations other than those contained herein. This agreement shall supersede all prior communications, representations or agreements, either verbal or written, between the parties. The original proposal as submitted by BAA, as attached, is included for documentation purposes only.

**MODIFICATION AND WAIVER.** No change or modifications of this agreement shall be valid or binding upon the parties hereto, nor shall any waiver of any term or condition thereof be deemed a waiver of such term or condition in the future, unless such change or modification or waiver shall be in writing signed by all the parties and added to this Memorandum.

**INTENT.** The intent of this Memorandum is to cooperatively work together to create a working relationship that will be mutually beneficial for both parties.

**ASSIGNMENT AND TRANSFER.** This Agreement shall not be assigned or transferred without written consent of City.

**EARLY TERMINATION.** The Agreement may be dissolved by either party upon providing ninety (90) days written notice.

**City:**

**BAA:**

\_\_\_\_\_  
Don Ware, Mayor

\_\_\_\_\_  
Alice Tetamore  
Art Association President

Date:

Date:

# Brownsville Art Association (BAA) Artist Contract

This is an agreement between BAA and the undersigned Artist summarizing and disclosing the rights and responsibilities of both parties. Either party may terminate this agreement by giving written notice at least 5 days prior to the artwork being on display or for sale. The Artist will supply, on the attached Inventory form, all information required by BAA regarding sale price/value of art. The fully completed Inventory Form must be dated, signed and received by BAA at the time the artwork is delivered. *Delivery cannot be accepted without the completed form.*

Each artist is expected to work/host in the Art Center during the time his/her work is on display. Artist will be provided with the number of hours he/she is to work when they apply to have his/her work in the Art Center. This section does not apply to the Open Community Show or the Community Photography Show.

All artwork sold at the Art Center will include a commission to BAA. The exact percentage of commission will be determined when application is submitted.

**NOTE:** Every precaution and care will be exercised in the handling and exhibition of the work. BAA provides insurance coverage for the "artwork of others" subject to a \$250 deductible. Artists are required to provide all information and forms requested by BAA in order to qualify for coverage. BAA provided coverage is limited to the scope and extent of its current policy (a copy of BAA's insurance policy will be available upon request). The BAA insurance policy shall be the sole and exclusive recourse and remedy for any loss, theft or damage for artwork subject to this contract. BAA makes no representations, and extends no warranties, for the safekeeping of any artwork. The artist is encouraged to personally insure all exhibited artwork if they have concerns about coverage against loss from theft or damage of any kind.

The artist's signature below indicates understanding and acceptance of the Artist contract and all terms and conditions stated herein. Please sign, include a completed Artwork Inventory Form and return contract and inventory form to BAA after you make a copy for your records.

Dates work will be displayed: \_\_\_\_\_

Artist's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Artist's Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

BAA: \_\_\_\_\_ Date: \_\_\_\_\_

BROWNSVILLE ART ASSOCIATION & EAST LINN ARTISTS

## Holiday Art & Fine Crafts Show & Sale

DATES: Nov- 29 to Dec 22 - Thursday thru Saturday

TIME: 10:00 am to 5:00pm.

WHERE: The Art Center, 255 North Main Street, Brownsville



More information  
on back of card



## Holiday Art & Fine Crafts Show & Sale

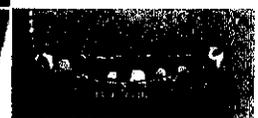
Featuring Local Artists

Ceramic, glass art, handcrafted soap, jewelry, metal art,  
painting: acrylic & watercolor photography, pottery, wood and more.

ARTIST RECEPTION

DATES: November 30th - Friday

TIME: 5 pm to 9 pm





**B O P Y**

## NOTICE TO ABATE

DATE OF NOTICE: *November 9<sup>th</sup>, 2012*

TYPE OF NUISANCE: *Junk and Zoning Infraction*

BROWNSVILLE MUNICIPAL CODE: *8.30.120 & 15.80.060 (See below)*

A visual inspection of the below described real property on *September 26<sup>th</sup>, 2012 & November 7<sup>th</sup>, 2012*, found multiple nuisances on the premises in violation of Brownsville Municipal Code Section 8.30.120, an accumulation of junk; specifically personal belongings being stored in the side yard/driveway and Brownsville Municipal Code Section 15.80.060 unauthorized home occupation.

Owner of Record: *Evelyn & Colleen Garrison*

Mail Address: *382 Kirk Avenue, Brownsville, OR 97327*

Property Address: *382 Kirk Avenue, Brownsville, OR 97327*

Occupant or Other Responsible Party: *Jay Marsh*

Legal Description: *T13S,R2W,31CA, TAX LOT #4400 TAX ACCOUNT #283479*

Notice is hereby given that the City of Brownsville (the "City") has determined the conditions on the above address constitute a nuisance. Within ten (10) days from the date of this notice, you are directed to abate the nuisance. If you fail to do so, the City will initiate abatement action under the provisions of the Brownsville Municipal Code by causing the nuisance to be abated and will charge the costs of doing so to the owners of the property and persons responsible, as identified above.

Cost Estimate: \$1,600

The City may also cite the violators into Municipal Court to be subject to fine.

In addition to the actual costs of having the violation abated, the City will also levy an administrative fee in the amount of \$20.00 to cover the cost of the enforcement action. Abatement costs and administrative fees which remain unpaid will become a lien against the property.

Should you wish to protest this order to abate, you must file a written notice specifying the basis for so protesting with the City Administrator and City Recorder within ten (10) days from the date of this notice. *Appeal will be decided by the City Council as a part of its next regularly scheduled meeting which will be held November 27<sup>th</sup>, 2012 at 7:00 p.m. in Council Chambers at City Hall, 255 N. Main Street, Brownsville, Oregon 97327.*



### ***Explanation***

**382 Kirk Avenue** – There are two issues or ordinance violations involved with the clean-up of the property. The first violation is against Brownsville Municipal Code Chapter 8.30.120 which outlines items that cannot be placed in a side yard. The City has observed personal property such as bed frames, furniture, parts of furniture and other personal property designed for inside use; tanks, containers, buckets, piles of scrap metal and the like.

The second violation is Brownsville Municipal Code Chapter 15.80.060 which does not allow home occupations unless approved by the Planning Commission. Because the property owners and persons responsible for the nuisance are receiving compensation for reclaiming the scrap metal on the property, the City has determined that a home occupation exists. Pursuant to BMC 15.60.010, the City Manager has sole discretion as to whether to enforce the development code through the nuisance abatement process or through a separate administrative process. In this case, the City is choosing to address the zoning violation as a nuisance. In order to legally operate a home business, you must complete a "conditional use" application for the requested business at this property. Mrs. Colleen Garrison has applied for a conditional use permit for a home occupation which would entail cleaning metal, as an example. Unless and until the Planning Commission approves the conditional use permit, operating a home occupation at the above address constitutes a nuisance and must be abated as such. Only Planning Commission approval would allow the home occupation to continue. The Planning Commission could at that time allow conditions for the home occupation, **if** they vote to allow the conditional use.

I have provided you with the relevant provisions of the Brownsville Municipal Code below:

#### **8.30.120 Nuisances affecting public peace – Junk.**

A. At a residence, no person shall store parts of vehicles, machinery or equipment; buckets, cans or bottles; household furniture and household furnishings manufactured, built or designed for inside use (out of the elements) and other personal property manufactured, built or designed for inside use or interior use (out of the elements); and personal property that is manufactured, built or designed for attachment to a structure as shutters, doors and windows, in front or street side yards at all, or interior side yards if a backyard is available for storage. "Yard," for this subsection, shall include driveway.

B. At a residence, no person shall store an appliance (operable or inoperable) or plumbing fixture in view of a public street.

C. At a residence, no person shall leave a burn barrel exposed to public view in the front yard.

D. At a residence, no person shall store lumber, plywood or building materials in view of a public street unless each type of item is stacked neatly.



E. At a residence, no person shall leave oil, fuel, chemical barrels or similar containers exposed to public view from a public street for a period in excess of three days. This section does not prohibit barrels, containers or tanks attached to a residential unit and used as a reservoir for oil or fuel.

F. At a residence, no person shall leave accumulations of limbs, branches and/or brush on property for longer than one entire burn season that can be seen from the public street.

G. Within 30 days of cleanup day, no person shall place items for pickup to the curbside or store items outdoors until seven days prior to the scheduled cleanup day. Items left at the curbside or on a property seven days after cleanup day may also be cited for immediate removal. If the City Administrator or designee notices a violation exists, he or she may post an abatement letter or hand-deliver a notice to the property owner. The property owner shall have 24 hours to remove the materials. [Ord. 731 § 2, 2011; Ord. 725 § 1, 2010; Ord. 588 § 32, 1989; 1981 Compilation § 4-5.32.]

**8.30.210 General penalties.**

Any person or persons who shall be convicted of being the author or keeper of a nuisance, or otherwise guilty of a violation of any of the provisions of this chapter, shall be fined not less than \$25.00 nor more than \$100.00, or by imprisonment not to exceed 25 days, or by both fine and imprisonment. [Ord. 588 § 52, 1989; 1981 Compilation § 4-5.52.]

**8.30.220 Separate violations.**

A. Each day's violation of a provision of this chapter constitutes a separate offense.

B. The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of determination that a nuisance exists will relieve the person responsible from the imposition of any fine or imprisonment under BMC 8.30.210. [Ord. 588 § 53, 1989; 1981 Compilation § 4-5.53.]

**15.80.060 Medium density residential zone – MDR.**

A. Uses Permitted Outright. In an MDR zone the following uses and their accessory uses are permitted outright:

1. Single-family dwelling.
2. Duplex.
3. Multiple-family dwelling, not to exceed four dwelling units in one structure.
4. Agriculture.
5. Residential home.
6. Residential facility.

B. Conditional Uses Permitted. In an MDR zone the following uses and their accessory uses may be permitted, subject to the provisions of Chapter 15.125 BMC:



**C O P Y**

1. Home occupation;
2. Church;
3. Government structure and land use with no equipment storage;
4. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, day care center, birthing center, or hospice;
5. Public or private school;
6. Utility substation or pumping station with no equipment storage;

**15.60.010 Administration.**

The City Administrator shall have the power and duty to enforce the provisions of [the development code]. An appeal from a ruling of the Administrator shall be made to the City Planning Commission. The City Administrator or designee may abate any violations in this title as prescribed in Chapter 8.30 BMC [nuisances] or may use BMC 15.60.060 solely at the discretion of the City Administrator.

**15.60.070 Penalty.**

In addition to penalties provided by state law, any person who violates or fails to comply with any provisions of this division shall, upon conviction thereof, be punished by a fine of not more than \$500.00, or by imprisonment for not more than 30 days, or both. A violation of this division shall be considered a separate offense for each day the violation continues. [Ord. 509 § 12.080, 1981; 1981 Compilation § 8-7:12.080.]

The City hopes that you will bring the property into compliance with local ordinances. If you should have any questions or concerns, please contact me at your convenience. Because of the weekend, the City will give you until 4:00 p.m. on Monday, November 19<sup>th</sup>, 2012 to comply with this notice. I look forward to hearing from you prior to then.

Sincerely,

A handwritten signature in black ink, appearing to read "SM", is written over the name of the administrator.

S. Scott McDowell  
Administrator

c: File

**RESOLUTION NO. 694**

**A RESOLUTION APPOINTING PRO TEMPORE JUDGE(S)  
FOR THE BROWNSVILLE MUNICIPAL COURT**

**WHEREAS**, Brownsville Municipal Code 2.55.030 allows the Council to appoint Municipal Judges Pro Tempore, to serve in the absence of the Municipal Judge; and,

**WHEREAS**, Pro Tem Judge Witzig will no longer be able to serve in this capacity as appointed in January 2012; and,

**WHEREAS**, the Linn County Board of Commissioners have appointed Ms. Jessica K. Meyer of the Morley Thomas Law Firm out of Lebanon, Oregon to fill this position; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE BROWNSVILLE CITY COUNCIL, THAT** Ms. Jessica K. Meyer is hereby appointed to serve as Municipal Judge Pro Tempore of the Brownsville Municipal Court for a term ending on the last day of December 2012.

Introduced and adopted this 27<sup>th</sup> day of November 2012.

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Don Ware, Mayor

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S. Scott McDowell, City Administrator

**RESOLUTION NO. 476**

**A RESOLUTION ADOPTING RULES OF CONDUCT AND PROCEDURES FOR CITY COUNCIL MEETINGS.**

WHEREAS, the City Council of the City of Brownsville has established certain procedures and practices over the years that dictate how city council meetings are run; and

WHEREAS, there is a certain legal and ethical code of conduct required of a person serving the public as a member of the City Council, and

WHEREAS, these rules, procedures and practices have never been formally adopted; and

WHEREAS, it is the wish of the current Brownsville City Council to adopt rules of conduct for the council and procedures for city council meetings to formalize these existing practices;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROWNSVILLE, a Municipal Corporation of the State of Oregon, that the Council Rules of Procedure, dated December 18, 2000 and attached hereto and incorporated herein by reference, is hereby adopted.

**Passed by the Council and Approved by the Mayor this 18th day of December, 2000.**

  
Mayor

  
City Administrator

**COUNCIL RULES OF PROCEDURE**  
**December 18, 2000**

**Section 1. Meeting of council.**

A. **Compliance.** All meetings of the city council shall comply with the Oregon State Public Meetings Law, which is hereby incorporated by reference into these rules.

B. **Meeting Schedule.** The city council will meet in regular session on the first and third Monday of each month unless the council cancels or reschedules the meeting. If either of these Mondays is a legal holiday, the council shall meet on Tuesday of that week.

C. **Time of Meeting.** Regular sessions will convene at 7:00 p.m. All regular sessions will be adjourned not later than 10:30 p.m. unless extended by consent of each and every councilor present at that meeting.

D. **Special Meetings.** Special meetings may be called by the mayor or three or more councilors. Twenty-four (24) hour notice shall be given to the remaining councilors, the city administrator and the public. Public notice shall be given by posting said notice on the front door of City Hall. The notice shall specify the meeting time and place and a description of the business to be transacted at the meeting. If a special meeting is called to deal with an emergency involving danger to life or property, notice is not required. No general legislation may be considered at a special meeting except that for which the meeting is called.

E. **Executive Sessions.** An executive session (a meeting closed to the public) may be held in accordance with the Public Meetings Law. The mayor may call any regular, special or emergency meeting into executive session by citing the specific provision of ORS 192.660 which authorizes the session. Representatives of the news media shall be allowed to attend executive sessions. The mayor shall instruct any media representatives present not to disclose the substance of any discussion during executive session. No final decision shall be made in executive session. To make a final decision, the presiding officer shall either call the meeting into open session or place the decision on the agenda of a future open session.

F. **Work Sessions.** Work Sessions of the council shall be held in accordance with Oregon Public Meetings Laws, and shall be called by either the Mayor, City Administrator or three councilors whenever circumstances require such a session.

G. **Attendance.** Councilors shall inform the City Administrator if they are unable to attend any meeting. Additionally, the Mayor shall inform the Council President, as well as the City Administrator, regarding any absence by the Mayor.

**Section 2. Agenda.**

The City Administrator shall prepare an agenda of the business to be presented at a regular Council meeting. The items on the agenda should follow the formal order of business prescribed elsewhere in these rules. The City Administrator, Mayor, council members or the public may request that a matter be placed on the agenda. The City Administrator shall have the discretion of placing an item on the agenda for the upcoming meeting or a subsequent meeting

because of time constraints or time needed for compilation of materials. Requests for placement of an item on the agenda must be received by the City Administrator by 5:00 p.m. on the Wednesday prior to a regularly scheduled meeting.

An item may be added to the agenda at the beginning of any meeting by the City Administrator, the Mayor or any council member subject to approval by a majority of the council present at the meeting.

### Section 3. Minutes.

A. Written minutes of all open regular and special meetings shall be prepared by a person designated by the City Administrator, and shall be approved by the council at the next meeting and made available for public inspection once approved. Minutes shall be signed by the presiding officer with that signature attested to by the City Administrator. All meetings shall be tape-recorded and the tapes shall be kept for a period of two years.

B. Written minutes shall include the names of all councilors present, all motions, resolutions, orders, ordinances and measures proposed and their disposition, the results of all votes, with the vote of each councilor by name unless the vote is unanimous, the substance of the discussion of any matter and references to any documents discussed.

### Section 4. Order of business.

A. Regular meetings shall be conducted in the following order of business, subject to the right of the mayor, with council consent, to alter the order of business:

1. Call to order.
2. Roll call.
3. Approval of minutes from previous meeting.
4. Public hearings. All public hearings will be subject to notice requirements as listed in other city ordinances and state law, unless there are none, and then a Notice of Public Hearing shall be placed in a local newspaper a minimum of one time within the 7 days prior to the meeting. A copy of this Notice of Public Hearing shall also be posted at City Hall during that time.
5. Citizen Input. Citizens wishing to Speak on Nonagenda Items. The purpose of this item is to allow citizens to address the council on matters related to city government and properly the object of council consideration. A time limit of five minutes per citizen shall apply, unless the Mayor, prior to the Citizen Input period, decides to allocate less time. Citizen comment shall not exceed 30 minutes unless the council votes to suspend the rules. The Council shall not act on issues raised during this portion of the agenda.
6. Departmental reports. Reports by staff members as deemed appropriate by the City Administrator.
7. Legislative Actions. Adoption of Ordinances and Resolutions.
8. Action Items. Items requiring a vote of the council, other than the adoption of Ordinances and Resolutions.

9. Discussion Items. Updates from City Administrator concerning on-going projects, discussion of proposed policy changes, discussion of proposed projects, etc.

10. Review of Handout Material.

11. Adjournment.

**Section 5. Discussion of business.**

A. The right to discuss the business before the council is reserved exclusively for the mayor, councilors, the city administrator and the city attorney, with the following exceptions:

1. Public hearings; and
2. Citizens wishing to speak on non-agenda items.

B. The presiding officer shall recognize any city staff member or member of the audience for discussion of any matter before the council.

C. No person shall be permitted to speak or present evidence until recognized by the presiding officer and given permission to speak or present evidence. All comments, evidence or questions from the floor will be addressed to the presiding officer. In the case of questions, the presiding officer will request input from the appropriate sources (staff, council or presenters).

**Section 6. Conduct of business.**

A. Presiding Officer. The mayor shall preside at all meetings of the council. In the absence of the mayor, the council president shall preside. The council president shall be elected at the first meeting of each odd-numbered year.

B. Absence of Presiding Officer. In the absence of the mayor and the council president, the council shall elect a councilor to serve as presiding officer as its first order of business. Any councilor may call a meeting to order for the purpose of electing a presiding officer.

C. Substitution of Presiding Officer. The presiding officer may appoint a temporary presiding officer to cover his or her temporary absence from the meeting by handing the gavel to the council president or, if the council president is absent or serving as presiding officer, to any other councilor.

D. Motion Procedure. When a motion is moved and seconded, it shall be stated by the presiding officer for debate. A motion once made may not be withdrawn by the mover without the consent of the councilor seconding it. No councilor shall be allowed to speak more than once on a particular question until every other councilor has had an opportunity to do so.

E. Motion to Postpone or Table. A motion to postpone or table may be debated and amended and may specify a time when the question will be considered. A motion to table precludes all amendments or debate and if the motion prevails, consideration of the question may be resumed only upon the motion of a member voting with the majority.

F. Point of Order. Any member may raise a point of order at any time and the presiding officer shall determine all points of order, subject to the right of any councilor to appeal the decision to the full council.

**Section 7. Conduct of hearings.**

**A. Scope of Rules.** The rules contained in this section shall govern the conduct of administrative and quasi-judicial hearings held by the council including, but not limited to, those held pursuant to land use matters of the city.

**B. Nature and General Conduct of Hearing.**

1. The council when conducting any such hearing shall afford persons entitled under the ordinances of the city, such as the land use ordinances, to notice of hearing, an opportunity to be heard, to present and rebut evidence to an impartial tribunal, and to have a decision based on substantial evidence.

2. No person in attendance shall be disorderly, abusive or disruptive of the orderly conduct of the hearing and any person may be removed from the hearing for such conduct.

3. No person offering testimony shall speak more than once without obtaining permission from the presiding officer.

4. No person shall testify without first standing, receiving recognition from the presiding officer and stating his or her name and residence or business address.

5. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by city personnel shall be deemed relevant, material and the weight or competency thereof shall be determined by the council.

6. There shall be no audience demonstrations, such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

7. The presiding officer, councilors, city administrator, city attorney and with the approval of the presiding officer, any other employee of the city may question and cross-examine any person who testifies.

**C. Challenging Participation by a Councilor.**

1. Any proponent, opponent of, or other party interested in a matter to be heard by the council may challenge the qualification of any councilor to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a councilor's bias, prejudice, personal interest, or other facts from which the party has concluded that the councilor will not participate and make a decision in an impartial manner.

a. Such challenge must be made prior to the commencement of the public hearing and shall be incorporated into the record of the hearing.

2. No councilor shall participate in discussion or vote on the matter when for any reason the councilor determines he or she cannot participate in the hearing and decision in an impartial manner.

3. No employee of the city who has a financial or other private interest shall participate in discussion with, or give an official opinion to, the council on the matter without first declaring for the record the nature and extent of such interest.

4. The general public has a right to have councilors free from pre-hearing or ex parte contacts on matters heard by them. It is also recognized that a countervailing public right is free access to public officials on any matter.

Therefore, councilors shall reveal any significant pre-hearing or ex parte contacts with regard to any matter as early as possible under the circumstances in the hearing on the matter. If such contacts have impaired the councilors' impartiality or ability to vote on the matter, the councilor shall so state and shall abstain therefrom.

5. Notwithstanding any provision of this or any other rule:

a. An abstaining or disqualified councilor may be counted for purposes of forming a quorum; and

b. A councilor may represent himself or herself, a client or any other member of the public at a hearing; provided, that said councilor abstains from the vote on the matter, removes himself or herself from the council area and joins the audience, and makes full disclosure of his/her status and position at the time of addressing the council.

D. Order of Procedure. The presiding officer, in the conduct of the hearing, shall comply with the appropriate city ordinance and/or state law for specific types of hearings so regulated. For administrative hearings not subject to other city ordinances or state law, the hearing will be conducted in the following manner:

1. Commence the Hearing. Announce the nature and purpose of the hearing and summarize the rules for the conduct of the hearing.

2. Call for Abstentions. Any councilor announcing a decision to abstain shall identify the reasons for abstaining and shall not participate in discussion of the matter or vote on the matter.

3. Staff Report. The City Administrator, or designee, shall summarize the nature of the matter, explain any graphic or pictorial displays which are a part of the record, and provide such other information as may be requested by the council.

4. Written Communications. Written communications addressing any matter before the council shall be received by the city by 5:00 p.m. on the Wednesday immediately preceding a regularly scheduled council meeting unless for good cause the council waives the time period therefor.

5. Audience Participation. Those present wishing to speak in favor of the proposed action will be allowed to speak, followed by those opposed to the proposed action.

8. Close of Hearing and Deliberation by Council. The presiding officer shall conclude the hearing and the council shall deliberate the matter. The council shall either make its decision or continue its deliberations to a subsequent meeting, the time and place of which must then be announced. The subsequent meeting shall be for the purpose of continued deliberation, and the presiding officer shall not allow additional submission of testimony, except upon approval by the council.

#### Section 8. Voting.

A. Requirement. The concurrence of a majority of those present and voting at a meeting, provided that a quorum is present, is required to determine any matter before the council. Each councilor present must vote on all questions before the council unless the member has a conflict of interest which would disqualify the member from voting. If a member abstains, the reasons for the abstention shall be entered in the record.

Before requesting research or other action by the City Attorney, the Council is encouraged to consider consulting with the City Administrator to ascertain whether the request or action can be accomplished more cost-effectively by alternate means. Outside a council meeting, a council member should make requests of the City Attorney through the City Administrator. Exceptions to this are issues related to the performance of the City Administrator and unique and sensitive personal, yet city business-related requests. The City Attorney shall in either case provide any written response to the full council and the City Administrator.

**Section 11. Communication with Staff.**

Council members shall respect the separation between policy making and administration by limiting individual contacts with city employees so as not to influence staff decisions or recommendations, interfere with their work performance, undermine the authority of supervisors or to prevent the full council from having benefit of any information received.

Council members shall address all inquiries and requests for information from staff to the City Administrator and allow sufficient time for a response. All written information given by the City Administrator, or designee, to one council member shall be distributed to all council members.

Council members shall respect the roles and responsibilities of staff when and if expressing criticism in a public meeting or through public electronic mail messages. Staff shall have the same respect for the roles and responsibilities of council members.

**Section 12. Confidentiality.**

Councilor Members shall keep all written materials provided to them on matters of confidentiality under law in complete confidence to ensure that the city's position is not compromised. No mention of the information read or heard should be made to anyone other than other councilors, the City Administrator or City Attorney.

If the council, in executive session, provides direction or consensus to staff on proposed terms and conditions for any type of negotiation, whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with other parties shall be made by designated staff or representatives handling the negotiations or litigation. A council member will not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.

The council, by resolution, may censure a member who discloses a confidential matter.

B. Roll Call Vote. At the request of any councilor, or as a requirement of any ordinance, any question shall be voted on by roll call.

C. Tie Vote. In the case of a tie vote on any proposal the proposal shall be considered lost.

D. Motion to Reconsider. A motion to reconsider any action may be made only at the same meeting where the action was taken, by a councilor on the prevailing side of the question. Any councilor may make a motion on the same question at any subsequent meeting.

E. Record of Votes. Unless the vote is unanimous, the ayes and nays of each councilor shall be entered in the minutes.

#### Section 9. Ethics code.

A. Councilors shall review and be bound by the requirements of the State Ethics Law dealing with use of public office for private financial gain. Councilors shall give public notice of any potential conflict of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, councilors shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims and transactions coming before the council. This general obligation includes the duty to refrain from:

1. Disclosing confidential information or making use of special knowledge or information before it is made available to the general public;
2. Making decisions involving business associates, customers, clients and competitors;
3. Violation of council rules in fact or intent;
4. Appointing relatives, clients or employees to boards and commissions;
5. Requesting preferential treatment for themselves, relatives, associates, clients, coworkers or friends;
6. Seeking employment of relatives with the city;
7. Actions benefiting special interest groups at the expense of the city as a whole;
8. Participating in decisions of city boards and commissions where there is a possibility of appeal of the matter to the council;
9. Expressing an opinion which is contrary to the official position of the council without so stating.

B. Councilors shall conduct themselves so as to bring credit upon the government of the city by respecting the rule of law, ensuring nondiscriminatory performance of public services, being informed concerning the matters of council consideration and abiding by all decisions of the council, whether or not the member voted on the prevailing side.

#### Section 10. Legal Advice.

Requests to the City Attorney for advice requiring legal research shall not be made by a member of the council except with the concurrence of the Council.

November 5<sup>th</sup>, 2012

**Re:** 1022 Oak Street – Brownsville Municipal Code Infractions

***Request for Action***

Dear Mr. Porter:

There are a few compliance issues with your property that I wanted to bring to your attention.

The ***first issue*** is in regards to the use of the RV/Trailer on the southeast side of your property. Your property is located in a Medium Density Residential (MDR) zone which allows RV/Trailer use for a specific time frame. The City witnessed the use of this RV/Trailer and officially noted the calendar on October 22<sup>nd</sup>, 2012 during routine City-wide inspections. Basically, property owners are allowed to have RV/Trailers used for 30 days in a 90 day period. As of November 5<sup>th</sup>, fifteen (15) days have been used toward the thirty (30) days. The City would prefer to have a letter from your landlord granting permission for this use.

Below is the applicable section of the Brownsville Municipal Code:

**15.105.030 Occupancy of recreational vehicles.**

A. Occupancy of recreational vehicles is permitted in the LDR, MDR and HDR zones, subject to the following standards:

1. A person may occupy a recreational vehicle on private land with the consent of the owner of the land under the following conditions:

- a. If the recreational vehicle is fully self-contained, it may be occupied for up to 30 days in any 90-day period on property occupied by, or contiguous to property occupied by, the owner of the property. An extension for a period not to exceed 15 days may be granted upon request and administrative review.

The City would like to bring your attention to these issues to avoid any unwanted violations. Violations of Brownsville Municipal Code Chapter 15 can get very expensive:

***Request for Action*** – 1022 Oak Street

Page 1 of 3

**15.60.070 Penalty.**

In addition to penalties provided by state law, any person who violates or fails to comply with any provisions of this division shall, upon conviction thereof, be punished by a fine of not more than \$500.00, or by imprisonment for not more than 30 days, or both. A violation of this division shall be considered a separate offense for each day the violation continues. [Ord. 509 § 12.080, 1981; 1981 Compilation § 8-7:12.080.]

The **second issue** concerns the wooden section of fence in the backyard that is currently in an unsafe condition which could cause injury. The City has also witnessed graffiti on the fence facing the neighbors property. The City would like to you remove the graffiti and secure the fence. The City would cite the following section of the Brownsville Municipal Code:

**8.30.140 Unenumerated nuisances.**

A. The acts, conditions or objects specifically enumerated and defined in BMC 8.30.020 through 8.30.120 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in BMC 8.30.150 through 8.30.200.

B. In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City is declared a nuisance and may be abated as provided in this chapter. [Ord. 588 § 45, 1989; Compilation § 4-5-45.]

The **third issue** concerns the rear end of an old pickup truck that is partially on the abutting neighbors property. The City has allowed these kinds of hauling apparatus and several people have them throughout town, however the City asks that they keep them in front of their own property. Below is the applicable Brownsville Municipal Code section:

**8.30.130 Discarded vehicles.**

A. Definitions.

1. "Discarded vehicle" means any vehicle that does not have lawfully affixed thereto an unexpired license plate or is in one or more of the following conditions:

- a. Wrecked;
- b. Dismantled;
- c. Partially dismantled;
- d. Abandoned; or
- e. Junked.

A discarded vehicle includes major parts thereof, including, but not limited to, bodies, engines, transmissions and rear ends.

2. "Inoperative vehicle" means any vehicle which is incapable of being driven or operated in the manner in which it is intended to be used, but which is not a discarded vehicle as defined herein.

B. Discarded Vehicles Prohibited. It shall be unlawful to park, store or leave, or permit the parking or storing of any discarded vehicle upon any public or private property within the City, unless it is located where it is not visible from outside the owner's property, or unless it is in connection with a properly authorized business pursuant to the zoning laws of the City.

The **fourth issue** concerns animal feces. The Brownsville Municipal Code requires removal of fecal material in a manner as not to spread infection or disease. Below is the applicable Brownsville Municipal Code section:

**8.30.030 Nuisances affecting public health.**

No person shall cause or permit on property he or she owns or controls a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this chapter:

B. Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the City.

Please take action to bring the property in compliance with the Brownsville Municipal Code by Wednesday, November 21<sup>st</sup>, 2012. The City will have to begin an enforcement action after that date as described above. Your cooperation is greatly appreciated! If you have any questions, please contact the office.

Sincerely,

S. Scott McDowell  
Administrator

c: Property Owner, 806 NW 4<sup>th</sup> Street, Corvallis, OR 97330  
Mayor  
File



**Building Permit Pre-Application Form**

Date of Application: \_\_\_\_\_

Applicant Name: \_\_\_\_\_

Site Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Lot #: \_\_\_\_\_

Phone #: \_\_\_\_\_

*\* If applicant is not the Owner, please provide Owner contact information:*

Site Address: \_\_\_\_\_  
\_\_\_\_\_

Phone #: \_\_\_\_\_

Cost Estimate: \_\_\_\_\_

Distance of Structure from Property Lines:

\_\_\_\_\_ North \_\_\_\_\_ East  
\_\_\_\_\_ South \_\_\_\_\_ West

County Building Permit #: \_\_\_\_\_

Fees: (TBD) \$1.00 per \$1,000 with Min. & Max. Or Flat Rate Fee...

Will you need?

	Yes	No
Sanitary Sewer Tap	<input type="checkbox"/>	<input type="checkbox"/>
Water Tap/Meter	<input type="checkbox"/>	<input type="checkbox"/>
Sprinkler System	<input type="checkbox"/>	<input type="checkbox"/>

Proposed Construction:

\_\_\_\_\_  
\_\_\_\_\_

Flood Zone?

**Please attach sketch of project. For new homes, attach lot and home layout drawings.**

*I hereby declare that the above and attached information are correct. I agree that in consideration of and upon issuance of a building permit, I will do or will allow to be done only such work as herewith applied for and such premises and its existing and proposed building and structures shall be used for such purposes as set forth above. I further declare that I have been duly authorized by the Owner to make the above application and agreements.*

Applicant Signature: \_\_\_\_\_

Zoning Coordinator: \_\_\_\_\_

## Water Permitting 101

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### ABSTRACT

The National Pollutant Discharge Elimination System (NPDES) Program has achieved significant reductions in pollutant discharges since it was established by the Federal Water Pollution Control Act Amendments of 1972. The development of this permitting program has, in turn, resulted in tremendous improvement to the quality of this country's water resources. This paper will present a brief history and introduction to the national water pollution control permitting program as administered by the United States Environmental Protection Agency (EPA) and provide an overview of the permitting activities implemented through the NPDES program today.

### INTRODUCTION

Twenty-five years ago, only a third of the nation's waters were safe for fishing and swimming. Wetland losses were estimated at four hundred and sixty thousand acres annually. Agricultural runoff resulted in the erosion of two and a quarter billion tons of soil and the deposit of large amounts of phosphorus and nitrogen into many waters. Sewage treatment plants served only eight-five million people.

Over the last 25 years, the quality of rivers, lakes and bays has improved dramatically as a result of the cooperative efforts by federal, state, tribal and local governments and communities to implement the public health and pollution control programs. Today, two-thirds of the nation's surveyed waters are safe for fishing and swimming. Wetland losses are estimated at seventy to ninety thousand acres annually. The amount of soil lost due to agricultural runoff has been reduced by one billion tons annually, and phosphorus and nitrogen levels in water sources have decreased. The number of people served by modern wastewater treatment facilities has more than doubled to one hundred seventy-three-million people.

### HISTORY OF WATER POLLUTION CONTROL IN THE US

Present government water pollution programs were initiated by the 1948 Water Pollution Control Act, which focused on protection of human health, not the environment. The Act allotted funds to state and local governments for water pollution control, placing emphasis on the States' role in controlling and protecting water resources, with few, if any, federal goals, objectives, limits, or guidelines.

Congress became increasingly interested in water quality degradation from 1956 through 1966, and passed four laws to strengthen the federal role in water pollution control, including the Water Pollution Control Act Amendments of 1956 and the Federal Water Pollution Control Act Amendments of 1961. These initiatives focused on giving additional funding to municipalities for constructing wastewater treatment works.

The Water Quality Act of 1965 represented a major regulatory advancement in water pollution control by requiring States to develop water quality standards for interstate waters by 1967. The Water Quality Act also called for States to develop waste load allocations to quantify pollutant loadings that could be discharged without exceeding the water quality standards. Despite increasing public concern and increased public spending, only about half of the States developed water quality standards by 1971. Furthermore, enforcement of the federal legislation was

minimal because the regulatory agencies had to prove that pollutant loadings had an impact on human health or violated water quality standards in order to take action. Additionally, there were no criminal or civil penalties to enforce the regulation.

The lack of success in developing adequate water quality standards programs, along with growing concern about the environment, prompted the President to form the United States Environmental Protection Agency (EPA) in 1970 to enforce environmental compliance and consolidate federal pollution control activities. The Refuse Act Permit Program (RAPP) was developed, under the 1899 Rivers and Harbors Act, as a new permitting program to control water pollution. RAPP required any facility discharging wastes into public waterways to obtain a federal permit specifying abatement requirements from the Army Corps of Engineers. The Administrator of the EPA endorsed the joint program with the Corps of Engineers, and on December 23, 1970, the permit program was mandated through Presidential Order. EPA and the Corps rapidly began to prepare the administrative and technical requirements for the permit program, but the effluent limits were more or less arbitrarily determined. In December 1971, RAPP was struck down by a decision of the Federal District Court in Ohio (*Kalur vs. Resor*).

Although RAPP was struck down, the concept of a permit program survived. In November 1972, Congress passed a comprehensive recodification and revision of federal water pollution control law, known as the Federal Water Pollution Control Act (FWPCA) Amendments of 1972, marking a distinct change in the philosophy of water pollution control in the United States. The Amendments maintained the requirements for water quality-based controls, but added an equal emphasis on technology-based, or end-of-pipe, control strategies. The FWPCA Amendments set ambitious goals in its Section 101(a), including:

- "it is the national goal that the discharge of pollutants into navigable waters be eliminated by 1985";
- "it is the national goal that wherever attainable an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983"; and
- "it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited".

The FWPCA Amendments contained four other important principles:

1. The discharge of pollutants to navigable waters is not a right.
  2. A discharge permit is required to use public resources for waste disposal and limits the amount of pollutants that may be discharged.
  3. Wastewater must be treated with the best treatment technology economically achievable, regardless of the condition of the receiving water.
- 
1. Effluent limits must be based on treatment technology performance, but more stringent limits may be imposed if the technology-based limits do not prevent violations of water quality standards in the receiving water.

## **EVOLUTION OF THE NPDES PROGRAM**

Title IV, Permits and Licenses, of the FWPCA Act created the system for permitting wastewater discharges (Section 402), known as the National Pollutant Discharge Elimination System (NPDES). Under NPDES, all facilities which discharge pollutants from any point source into waters of the United States are required to obtain a permit. The permit provides two levels of control: technology-based limits (based on the ability of dischargers in the same industrial

category to treat wastewater) and water quality-based limits (if technology-based limits are not sufficient to provide protection of the water body).

The first round of NPDES permits, issued from 1973 through 1976, required non-municipal (industrial) facilities to meet two technology-based standards: Best Practicable Control Technology Currently Available (BPT) and Best Available Technology Economically Achievable (BAT) with compliance deadlines of July 1, 1977 and July 1, 1983 respectively. Municipal facilities were required to meet secondary (biological) treatment standards by July 1, 1977.

EPA defined BPT as the average of the best existing performance by well operating plants within each industrial category or sub-category. BPT standards had to be justified in terms of the industry-wide cost of implementing the technology in relation to the pollutant reduction benefits. EPA defined BAT as the performance associated with the best control and treatment measures that have been, or are capable of being, achieved. For BAT, EPA must still consider the cost of attainability, however, it is not required to balance the cost of implementation against the pollutant reduction benefit.

In addition to BPT and BAT requirements, the 1972 FWPCA Amendments (Section 306) established new source performance standards (NSPS) as more restrictive requirements for new sources. EPA defined *new sources* as any facility from which there may be a discharge of pollutants that began construction following the promulgation of the proposed NSPS. The intent of NSPS was to set the most stringent limits based on the performance of the best available technologies. These limits represent state-of-the-art treatment technologies for new sources because these dischargers have the opportunity to install the most efficient production processes and the latest in treatment technologies at the time of start-up. NSPS are effective on the date of commencement of operation of the new facility, and the facility must demonstrate compliance within 90 days of start-up (40 CFR §122.29(d)).

EPA tried to set nationally uniform effluent limits for removal of traditionally regulated pollutants as a basis for technology-based limits. However, most guidelines were not in place when the first set of permits was developed. About seventy-five percent of the first round permits were issued under a small, but very powerful, part of the act which allowed the permit writer to use their Best Professional Judgment (BPJ) to establish limits. Instead of a corps of professionals combining their expertise to set national limits for an industry, a single permit writer developed discharge limits based on knowledge of the industry and the specific discharge.

Due to a lack of information on treatability of toxics, EPA did not fully address toxics in the promulgated guidelines. Furthermore, EPA failed to develop all of the required effluent guidelines within the statutory deadline. For these reasons, the Natural Resources Defense Council (NRDC) sued EPA resulting in a court supervised "consent decree" in 1976 identifying:

- the toxic *priority pollutants* to be controlled,
- the *primary industries* for technology-based control, and
- the *methods for regulating toxic discharges* through the authorities of the FWPCA Amendments.

The provisions of the consent decree were incorporated into the framework of the 1977 Amendments, formally known as the Clean Water Act (CWA), shifting the emphasis from controlling "conventional" pollutants to controlling toxic discharges. Section 304(a)(4) of the CWA designated the following as *conventional pollutants*:

- Five day biochemical oxygen demand (BOD<sub>5</sub>),
- Total suspended solids (TSS),
- pH,
- Fecal coliform, and
- Oil and grease (O&G) (added in 1979 in 40 CFR §401.16).

Section 307(a)(1) of the CWA required the establishment of a published list of toxic pollutants or combination of pollutants often called the *priority pollutants* (listed in 40 CFR §401.15). Originally 65 toxic pollutants and classes of pollutants were identified; later this list was expanded to 126 pollutants and classes of pollutants. Substances, such as chlorine or ammonia that are not specifically listed as conventional or toxic pollutants, are called *non-conventional pollutants*.

The CWA adjusted technology-based standards to reflect the shift toward toxics. The conventional pollutants, controlled by BPT in the first round of permitting, were now subject to a new level of control termed Best Conventional Pollutant Control Technology (BCT) with a compliance deadline of July 1, 1984. BCT is not an additional limit, but replaces BAT for the control of conventional pollutants, while BAT remains in effect for the toxic and non-conventional pollutants. Because the CWA clarified that BAT controls cover toxic and non-conventional pollutants, the compliance deadline for BAT was extended to July 1, 1984.

The CWA recognized that the technology-based limits were not able to prevent the discharge of toxic substances in toxic amounts in all waterways. To compliment its work on technology-based limits, the EPA initiated a national policy in February 1984 to control toxics based on a water quality approach. On February 4, 1987, Congress amended the CWA with the Water Quality Act (WQA) of 1987 which outlined a strategy to accomplish the goal of meeting water quality standards set by states.

The WQA again extended the time to meet BAT and BCT effluent limits to a compliance deadline of March 31, 1989 for both. The WQA also established new schedules for industrial and municipal storm water discharges to be regulated by NPDES permits. In addition to meeting water quality-based standards, industrial storm water discharges must meet the equivalent of BAT and BCT effluent quality standards. Discharges from municipal separate storm sewer systems (MS4s) were required to have controls to reduce pollutant discharges to the "maximum extent practicable". Additionally, the WQA required EPA to identify toxics in sewage sludge and establish numeric limits to control these toxics. A statutory anti-backsliding requirement was established limiting the circumstances under which an existing permit can be modified or reissued with less stringent effluent limits, standards, or conditions than those already imposed.

## **SCOPE OF THE NPDES PROGRAM**

Under the NPDES Program, all facilities which discharge *pollutants* from any *point source* into *waters of the United States* are required to obtain an NPDES permit. Understanding how each of the key terms ("pollutant," "point source," and "waters of the United States") have been defined and interpreted by the regulations is the key to defining the scope of the NPDES Program.

### **Pollutant**

The term *pollutant* is defined very broadly by the NPDES regulations and litigation and includes any type of industrial, municipal, and agricultural waste discharged into water. For regulatory purposes, pollutants have been grouped into three general categories under the NPDES Program: *conventional*, *toxic*, and *non-conventional*. There are five *conventional pollutants* (mentioned

above and defined in Section 304(a)(4) of the CWA). *Toxic pollutants*, or *priority pollutants*, are those defined in Section 307(a)(1) of the CWA and include metals and manmade organic compounds. *Non-conventional pollutants* are those which do not fall under either of the above categories, and include such parameters as ammonia, nitrogen, phosphorus, chemical oxygen demand (COD), and whole effluent toxicity (WET).

### **Point Source**

Pollutants can enter waters of the United States from a variety of pathways including agricultural, domestic, and industrial sources. For regulatory purposes these sources are generally categorized as either *point sources* or *non-point sources*. Typical *point source* discharges include discharges from publicly owned treatment works (POTWs), discharges from industrial facilities, and discharges associated with urban runoff. While provisions of the NPDES Program do address certain specific types of agricultural activities (i.e., concentrated animal feeding operations), the majority of agricultural facilities are defined as *non-point sources* and are exempt from NPDES regulation.

Pollutant contributions to waters of the United States may come from both *direct* and *indirect* sources. *Direct* sources discharge wastewater directly into the receiving water body, whereas *indirect* sources discharge wastewater to a POTW, which in turn discharges into the receiving water body. Under the national program, NPDES permits are issued only to direct point source discharges. Industrial and commercial indirect dischargers are addressed by the National Pretreatment Program.

As indicated above, the primary focus of the NPDES permitting program is municipal and non-municipal (industrial) direct dischargers. Within these major categories of dischargers, however, there are a number of more specific types of discharges that are regulated under the NPDES Program.

### **Municipal Sources**

Municipal sources are POTWs that receive primarily domestic sewage from residential and commercial customers. Larger POTWs will also typically receive and treat wastewater from industrial facilities (indirect dischargers) connected to the POTW sewerage system. The types of pollutants treated by a POTW will always include conventional pollutants, and may include non-conventional pollutants and toxic pollutants depending on the unique characteristics of the commercial and industrial sources discharging to the POTW.

The treatment provided by POTWs typically includes physical separation and settling (e.g., screening, grit removal, primary settling), biological treatment (e.g., trickling filters, activated sludge), and disinfection (e.g., chlorination, UV, ozone). These processes produce the treated effluent (wastewater) and a biosolids (sludge) residual, which is managed under the Municipal Sewage Sludge Program. Some older POTWs have an additional concern of combined sewer overflow (CSO) systems that can release untreated effluent during storm events. CSOs were an economic way for municipalities to collect both sanitary sewage and storm water and are controlled under the NPDES program. A number of municipalities have MS4s that are also subject to NPDES requirements. Specific NPDES program areas applicable to municipal sources are:

- the National Pretreatment Program,
- the Municipal Sewage Sludge Program,
- Combined Sewer Overflows (CSOs), and

- the Municipal Storm Water Program.

### **Non-municipal Sources**

Non-municipal sources, which include industrial and commercial facilities, are unique with respect to the products and processes present at the facility. Unlike municipal sources, at industrial facilities the types of raw materials, production processes, treatment technologies utilized, and pollutants discharged vary widely and are dependent on the type of industry and specific facility characteristics.

The operations at industrial facilities are generally carried out within a clearly defined plant area; thus, the collection systems are typically less complex than those for POTWs. Industrial facilities may have storm water discharges contaminated by manufacturing activities, contact with raw materials or product storage activities, and may have non-process wastewater discharges such as non-contact cooling water. The NPDES Program addresses these potential wastewater sources for industrial facilities. Residuals (sludge) generated by industrial facilities are not currently regulated by the NPDES Program. Specific NPDES program areas applicable to industrial sources are:

- Process Wastewater Discharges,
- Non-process Wastewater Discharges, and
- the Industrial Storm Water Program.

### **Waters of the United States**

EPA defines the term *waters of the United States*, to include:

- Navigable waters,
- Tributaries of navigable waters,
- Interstate waters, and
- Intrastate lakes, rivers, and streams which are:
  - -used by interstate travelers for recreation and other purposes;
  - -sources of fish or shellfish sold in interstate commerce; or
  - -utilized for industrial purposes by industries engaged in interstate commerce.

The intent of this definition is to cover all possible waters within federal jurisdiction under the Commerce Clause of the Constitution. The definition has been interpreted to include virtually all surface waters in the United States, including wetlands and ephemeral streams. As a general matter, groundwater is not considered a water of the United States; therefore, discharges to groundwater are not subject to NPDES requirements. If, on the other hand, there is a discharge to groundwater that has a "hydrological connection" to a nearby surface water, the discharger may be required to apply for an NPDES permit because the discharge is then considered a water of the United States. States may choose to require NPDES permits for discharges to groundwater; jurisdiction over groundwater resources is maintained by States.

### **TYPES OF PERMITS**

A permit is typically a license for a facility to discharge a specified amount of a pollutant into a

receiving water under certain conditions; however, permits may also authorize facilities to process, incinerate, landfill, or beneficially use sewage sludge. The two basic types of NPDES permits issued are individual and general permits.

An *individual permit* is a permit specifically tailored to an individual facility. Once a facility submits the appropriate application(s), the permitting authority develops a permit for that particular facility based on the information contained in the permit application (e.g., type of activity, nature of discharge, receiving water quality). The authority issues the permit to the facility for a specific time period (not to exceed five years) with a requirement that the facility reapply prior to the expiration date.

A *general permit* covers multiple facilities within a specific category. General permits may offer a cost-effective option for permitting agencies because of the large number of facilities that can be covered under a single permit. According to the NPDES regulations at 40 CFR §122.28, general permits may be written to cover categories of point sources having common elements, such as:

- Storm water point sources;
- Facilities that involve the same or substantially similar types of operations;
- Facilities that discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
- Facilities that require the same effluent limits, operating conditions, or standards for sewage sludge use or disposal; and
- Facilities that require the same or similar monitoring.

General permits, however, may only be issued to dischargers within a specific geographical area such as city, county, or state political boundaries; designated planning areas; sewer districts or sewer authorities; state highway systems; standard metropolitan statistical areas; or urbanized areas.

By issuing general permits, the permitting authority allocates resources in a more efficient manner to provide more timely permit coverage. For example, a large number of facilities that have certain elements in common may be covered under a general permit without expending the time and money necessary to issue an individual permit to each of these facilities. In addition, using a general permit ensures consistency of permit conditions for similar facilities.

### **Major Components of a Permit**

All NPDES permits, at a minimum, consist of five general sections:

1. *Cover Page* - Typically contains the name and location of the permittee, a statement authorizing the discharge, and the specific locations for which a discharge is authorized.
2. *Effluent Limits* - The primary mechanism for controlling discharges of pollutants to receiving waters. Permit writers spend a majority of their time deriving appropriate effluent limits based on applicable technology-based and water quality-based standards.
3. *Monitoring and Reporting Requirements* - Used to characterize waste streams and receiving waters, evaluate wastewater treatment efficiency, and determine compliance with permit conditions.

4. *Special Conditions* - Conditions developed to supplement effluent limit guidelines. Examples include: best management practices (BMPs), additional monitoring activities, ambient stream surveys, and toxicity reduction evaluations (TRES).
5. *Standard Conditions* - Preestablished conditions that apply to all NPDES permits and delineate the legal, administrative, and procedural requirements of the permit.

Every permit contains these five basic sections, but the contents of sections will vary depending on whether the permit is issued to a municipal or industrial facility and whether the permit will be issued to an individual facility or to multiple dischargers (i.e., a general permit).

## OVERVIEW OF THE PERMITTING PROCESS

While the limits and conditions in an individual NPDES permit are unique to the permittee, the process used to develop the limits and conditions and issue the permit generally follows a common set of steps. The order of these steps may vary depending on whether the permit is an individual or general permit. A general description of permitting process for individual and general permits is presented below. Additionally, the future consideration of permitting on a watershed basis is discussed.

### Individual Permits

As specified in 40 CFR §124, the major steps for a permit writer to develop and issue an individual NPDES permit are:

1. Receive application from permittee.
2. Review application for completeness and accuracy.
3. Request additional information as necessary.
4. Develop technology-based effluent limits using application data and other sources.
5. Develop water quality-based effluent limits using application data and other sources.
6. Compare water quality-based effluent limits with technology-based effluent limits and choose the more stringent of the two as the effluent limits for the permit.
7. Develop monitoring requirements for each pollutant.
8. Develop special conditions.
9. Develop standard conditions.
10. Consider variances and other applicable regulations.
11. Prepare the fact sheet, summarizing the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit including public notice of the draft permit, and other supporting documentation.
12. Complete the review and issuance process.
13. Issue the final permit.
14. Ensure permit requirements are implemented.

The NPDES permitting process begins when the operator of the facility (permittee) submits an application. After receiving the application and making a decision to proceed with the permit, the permit writer reviews the application for completeness and accuracy. When the application is complete, the permit writer, using the application data, begins to develop the draft permit and the justification for the permit conditions (referred to as the fact sheet or statement of basis).

The first major step in the development process is deriving technology-based effluent limits. Following this step, the permit writer derives effluent limits that are protective of state water quality standards (i.e., water quality-based effluent limits). The permit writer then compares the technology-based effluent limits with the water quality-based effluent limits and applies the more

stringent limits in the permit. The decision-making process for deriving limits is documented in the permit fact sheet. It is quite possible that a permit may have limits that are technology-based for some parameters and water quality-based for, others. For example, a permit may contain an effluent limit for TSS based on national effluent limit guidelines (technology-based), a limit for ammonia based on prevention of aquatic toxicity (water quality-based), and a BOD<sub>5</sub> limit based for part of the year on effluent limit guidelines (technology-based) and for the remainder of the year on water quality considerations.

Following the development of effluent limits, the permit writer develops appropriate monitoring and reporting conditions, facility-specific special conditions, and includes standard conditions that are the same for all permits.

After the draft permit is complete, the permitting authority provides an opportunity for public participation in the permit process. A public notice announces the permit and interested parties may submit comments regarding the draft permit. Based on the comments, the permitting authority then develops the final permit, with careful attention to documenting the process and decisions for the administrative record, and issues the final permit to the facility.

### **General Permits**

The process for developing and issuing general NPDES permits is similar to the process for individual permits, however, there are certain differences in the order of events. The permitting authority first identifies the need for a general permit by collecting data demonstrating that a group, or category, of dischargers has similarities that warrant a general permit. In deciding whether to develop a general permit, permitting authorities consider the following:

- Are there a large number of facilities to be covered?
- Do the facilities have similar production processes or activities?
- Do the facilities generate similar pollutants?
- Do only a small percentage of the facilities have the potential for violations of water quality standards?

The remaining steps of the permit process are the same as for individual permits. The permitting authority develops the draft permit and fact sheet, issues a public notice, addresses public comments, documents the issues for the administrative record, and issues the final permit. After the general permit has been issued, facilities that wish to be covered under the general permit generally submit a Notice of Intent (NOI) to the permitting authority. The permitting authority may then either request additional information describing the facility, notify the facility that it is covered by the general permit, or require the facility to apply for an individual permit.

### **Watershed Permitting**

Recently, EPA has focused on the goal of integrating the NPDES program further into the concept of watershed planning. This process involves examining the core functions of the NPDES program, as described in this paper, and assessing how to adapt the program to better promote community-based water resource management rather permitting on a source-by-source basis. EPA is gaining insight into the best way to refine the NPDES framework to make decisions based on a watershed analysis and to engage local leadership in planning and non-point sources in pollution control, while maintaining a strong baseline individual and general permitting program.

EPA is exploring models for a watershed permitting program that would allow for local

leadership in conducting watershed planning and selecting appropriate management options to meet watershed goals and CWA requirements. For example, a local water quality authority, with jurisdiction over thirty individual discharges across three watersheds and some non-point source control authority, could receive three watershed permits rather than 30 individual source permits. The watershed permits would set ambient water quality requirements that the water quality authority must meet using a combination of point and non-point source controls selected through a local watershed planning process. Additionally, the permits may contain individual point source effluent limits that meet technology-based requirements and certain water quality-based requirements not addressed in the watershed plans.

Watershed permitting may present EPA, states, and communities with a unique framework to achieve the goals of the CWA and objectives of local watershed management initiatives. By focusing on ambient or watershed goals in a watershed permit, regulatory agencies, regulated dischargers, and non-regulated sources may meet otherwise unattainable watershed objectives with potential cost savings relative to source-by-source permitting.

## **ROLES AND RESPONSIBILITIES OF THE FEDERAL AND STATE AUTHORITIES**

EPA is authorized under the CWA to directly implement the NPDES Program. EPA, however, may authorize States, Territories, or Tribes to implement all or parts of the national program. States, Territories, or Tribes applying for authorization may seek the authority to implement the base program (i.e., issue individual NPDES permits for industrial and municipal sources) and additional parts of the national program including:

- Permitting of federal facilities;
- Administering the National Pretreatment Program; and/or
- Administering the Municipal Sewage Sludge Program.

If the State, Territory, or Tribe only has partial authority (e.g., only the base NPDES permits program), EPA will implement the other program activities. For example, a State may have an approved NPDES Program, but has not received EPA approval of the State's Municipal Sewage Sludge Program. The EPA Region would be responsible for ensuring conditions to implement the Standards for the Use or Disposal of Sewage Sludge (40 CFR §503) were included in NPDES permits issued to POTWs in that State. EPA may issue a separate NPDES permit with the applicable sewage sludge standards and requirements, or may negotiate with the State on joint issuance of NPDES permits. The same process also applies where a State, Territory, or Tribe has not received approval for administering the National Pretreatment Program or permitting of federal facilities.

In general, once a State, Territory, or Tribe is authorized to issue permits or administer a part of the program, EPA no longer conducts these activities. However, EPA must have an opportunity to review each permit issued by the State, Territory, or Tribe and may formally object to elements that conflict with federal requirements. If the permitting agency does not address the objection points, EPA will issue the permit directly. Once a permit is issued through a government agency, it is enforceable by the approved State, Territorial, Tribal and Federal agencies (including EPA) with legal authority to implement and enforce the permit, and also enforceable by private citizens (in federal court).

If the State, Territory, or Tribe does not have approval for administering the NPDES program, EPA will operate the NPDES program. When EPA issues the permit, Section 401(a) of the CWA requires that EPA obtain certification from the State where the discharge will occur to ensure that the discharge will be in compliance with effluent limits, the State's water quality

standards, and "any other appropriate requirement of State law." Section 401(d) requires the State to list in the certification the conditions that must be included in the permit to implement the certification.

## **CONCLUSION**

From the 1948 Water Pollution Control Act to the 1977 CWA to the WQA of 1987, the NPDES permitting program evolved from environmental legislation to control water quality degradation. Improvements to the quality of water in this country can be directly linked to the implementation of the NPDES program and the control of pollutants discharged from both municipal and industrial point sources into waters of the United States. Individual and general permits set technology-based and water quality-based effluent limits to maintain environmental standards that ensure safe water for the enjoyment of all.

## **REFERENCES**

*U.S. EPA NPDES Permit Writers' Manual*; U.S. Environmental Protection Agency, Office of Water, December, 1996; EPA-833-B-96-003, pp 1-28.

Houck, O. A. "The Regulation of Toxic Pollutants Under the Clean Water Act", *Environmental Law Reporter* September 1991, 21, 10528-10560.

Kovalic, J. M. *The Clean Water Act of 1987, 2<sup>nd</sup> edition*; The Water Pollution Control Federation (W.P.C.F); Alexandria, VA, 1987.

**KEY WORDS:** Effluent guidelines, EPA, NPDES, Permitting, Pollution, Water



Received  
City of Brownsville

NOV 16 2012

November 15, 2012

Clerk \_\_\_\_\_

**HAND DELIVERED**

Ms. Carrie Everett  
DEQ-Western Region  
750 Front Street NE, Suite 120  
Salem, OR 97301-1039

RE: City of Brownsville – Comments on the Draft NPDES Permit – File 11770  
J.O. 2288.3039.0

Dear Carrie:

This letter is submitted on behalf of the City of Brownsville by Westech Engineering and is in response to the Department's November 2, 2012 letter and supporting documents including the Applicant Review NPDES permit, the draft Public Notice and the Evaluation report. In accordance with your letter of November 2, 2012, the City's comments are to be submitted on or prior to November 16, 2012. Please consider this letter to be the City's formal comments on the DEQ prepared documents.

Listed below are comments and the changes that the City requests be incorporated into the NPDES permit.

- NPDES Permit. Page 2 of 19, Schedule A. The old permit included language that identified a procedure for extending the discharge season into the month of May. This language has been removed from proposed renewed permit. The City requests that this language be added back in. During unusually wet years, the City may need to discharge during the month of May to ensure that adequate storage is available for the dry weather storage season.
- NPDES Permit. Page 4 of 19, Note 2. This note addresses the limitation for the chlorine residual following the dechlorination of the final effluent. The permit proposes a compliance evaluation limit of 0.05 mg/L for chlorine. The existing permit has this limit at 0.10 mg/L. The City requests that the existing limit of 0.10 mg/L remain unchanged because the City's lab equipment is not capable consistently and accurately measuring chlorine residuals less than 0.10 mg/L.
- NPDES Permit. Page 6 of 19. Table B2. The description for the Total Residual Chlorine under the "Sample Type" column is misleading. As now written it states "Grab, taken after dechlorination and before effluent flume". The sample should be taken at compliance manhole immediately downstream of the effluent structure (See drawing

November 15, 2012  
Ms. Carrie Everett  
DEQ-Western Region  
Page 2

C324 of the City's 2007 Wastewater System Improvement Project). We recommend that the wording be changed to read as follows "Grab, taken from the Compliance Manhole immediately downstream of the Effluent Structure".

- NPDES Permit. Page 7 of 19. Under the proposed permit there are no Notes included with Schedule B. The City believes it is very important to include Note 2 from Schedule B of the existing permit and which addresses how removal efficiencies are to be calculated when the discharge to the river occurs. For clarity, the note is as shown below.

"During any month when the discharge is only from the South Lagoon system, the percent removal efficiency for BOD5 and TSS shall be calculated using the monthly average loading from the influent and effluent.

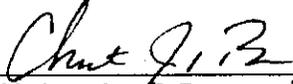
During any month when the discharge is from both the North and South Lagoon systems, the percent removal efficiency for BOD5 and TSS shall be calculated using arithmetic mean of the monthly average loading from the North and South lagoon influent and the total monthly average loading from the effluent."

The City requests that this Note be included in Schedule B of the new permit so that it is clear to all interested parties how the percent removal is to be calculated.

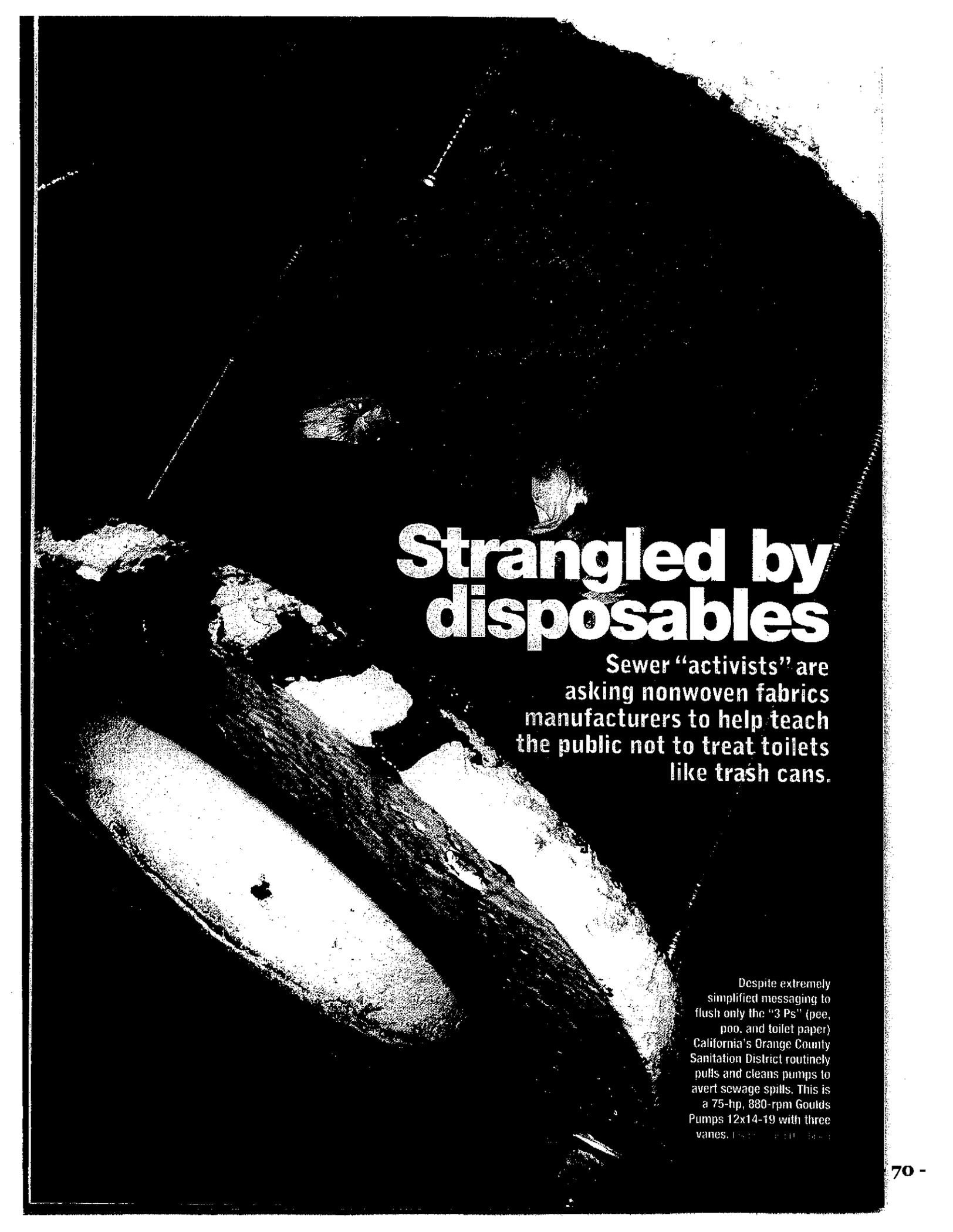
We hope this information is useful. Should you have any questions or require any additional information, please contact us at (503) 585-2474.

Sincerely,

**WESTECH ENGINEERING, INC.**

  
\_\_\_\_\_  
Christopher J. Brugato, P.E.

✓ jly  
cc: Mr. S. Scott McDowell, City of Brownsville



# Strangled by disposables

Sewer "activists" are asking nonwoven fabrics manufacturers to help teach the public not to treat toilets like trash cans.

Despite extremely simplified messaging to flush only the "3 Ps" (pee, poo, and toilet paper) California's Orange County Sanitation District routinely pulls and cleans pumps to avert sewage spills. This is a 75-hp, 880-rpm Goulds Pumps 12x14-19 with three vanes. <http://www.gouldspumps.com>

PW SOLUTIONS:  
**WaterWorks**



**Editor's note:** Every time my seventh-grade gym teacher referred to a tampon, she'd hold it up, stare us down, and say: "Never, ever, flush this — or the applicator — down the toilet." Whether she was required to say it or married to a plumber, I don't know. Didn't matter. We got the message.

We need to re-educate people about what can and can't be flushed. Toilets are more robust than when I was in junior high (and no, I'm not telling you the year). Back then property owners clogged their own plumbing; today our sanitary sewer systems are taking the hit.

This article talks a lot about wet wipes, but they're not the only culprit. Like toilet paper, which disintegrates in about 1 minute, some wipes disperse rapidly. But many other items do not. According to Association of the Nonwoven Fabrics Industry (INDA) field tests with wastewater utilities, nondispersibles break down as:

- 50% paper towels from public restrooms; they get to the treatment plant relatively intact and build up on bar screens
- 25% baby wipes
- 25% feminine hygiene, household cleaning, and cosmetic wipes; tampon strings wrap around other stuff to create a solid mass of material.

The public "demands" convenience, but only because nonwoven fabrics (see sidebar on page 38) enable The Procter & Gamble Co., Kimberly-Clark Corp., and other companies to dispense household cleaners, fabric softeners, hemorrhoid cream, and hundreds of other consumer packaged goods via a single sheet, or wipe. In 2002, the market for wet wipes was worth \$2 billion. This year, according to The New England Consulting Group of Norwalk, Conn., it's \$5 billion. Five years from now: \$6.5 to \$7 billion.

Companies market them as "flushable," "biodegradable," and "safe for sewers and septic systems," but I wouldn't be writing this if they're *also* dispersible; i.e., dissolvable in water. Here's how the wastewater industry is responding.

Next month we'll give you some solutions.

— Stephanie Johnston

(continued)

This PW Solutions section is dedicated to wastewater and stormwater operations.

## INSIDE WATERWORKS ...

It's a toilet, not a trash can: the huge difference between "flushable" and "dispersible."

**PAGE 32**

EPA's new framework for balancing stormwater, wastewater regs, and resources.

**PAGE 41**

How to set pricing for financially challenged customers.

**PAGE 47**



Every Monday and Thursday Orange County Sanitation District crews remove nondispersibles from three pump stations, a preventive maintenance task that takes two employees up to two hours to complete. This is a 200-hp, 880-rpm Fairbanks Morse 5713 with three vanes and a 24.38-inch impeller.

Senior Mechanic Gilbert Padilla pulls out stubborn material. Labor cost for one year for 971 such preventive or corrective de-ragging actions at 10 of 15 pump stations: \$320,000.



**W**et wipes and other disposable sheets seem so harmless. Just flush them down the toilet and they magically disappear, right? Wrong. Unlike toilet paper, some contain plastic and other nonsolubles that render them “non-dispersible,” the wastewater industry’s term for material that doesn’t dissolve quickly in water. Instead of disintegrating, they settle in gravity sewer mains or get tangled in pump impellers.

The Orange County Sanitation District in Fountain Valley is the third-largest wastewater treatment agency in California. We treat 210 mgd through two treatment plants and own 587 miles of sewers and 15 pump stations; 4,513 miles of satellite sewer system feed into our trunklines. Our 479-square-mile service area includes 21 cities, 3 special districts, and 2.5 million people.

In 2010 – 2011, we conducted 971 preventive or corrective de-ragging maintenance calls on 10 pump stations. Total labor cost: \$320,000. We continue to work diligently to avert clogging that could lead to a sewer spill. Every Monday and Thursday our crews remove nondispersibles from our three hardest-hit stations. A minimum of three pumps at each is taken out of service, opened, and de-ragged, a task that

takes two employees up to two hours at each station to complete.

Our capital improvements project called for installing Wemco-Hidrostral screw centrifugal pumps at project locations, but they don’t solve the ragging problem. Our investment in more powerful equipment just moves the problem downstream to the treatment plant. On Aug. 13, the equivalent of 40 large trash bags of nondispersible material entered the headworks at one plant, most likely from a newer trunkline that runs under a riverbed, which overburdened or completely plugged three washer compactors. It took six to eight hours and up to 10 plant employees to restore normal operation.

As the multibillion-dollar feminine hygiene and urinary incontinence market continues to develop new products like disposable undergarments, we anticipate the “flushable” issue will only get worse.

**Flushability vs. dispersibility**  
Manufacturers voluntarily test products for flushability, but federal law doesn’t require third-party assessment or verification. Nor is there a required protocol for package labeling, one that would forcefully instruct consumers to throw the used product in the garbage. I’ve been working with the Water En-



vironment Federation (WEF) and colleagues in California, Maine, New Jersey, Oregon, and Washington State to advocate that wipes labeled as “flushable” also be “rapidly dispersible” and that such claims be verified by a third party like NSF International.

I got involved with this issue in 2003 by sharing information at Southern California Alliance of Publicly Owned Treatment Works meetings. At about the same time, but unbeknownst to me, the Water Environment Research Foundation (WERF) and Procter & Gamble published *Protocols to Assess the Breakdown of Flushable Consumer Products* (WERF Stock No. 02CTS7P).

In 2005, the Association of the Nonwoven Fabrics Industry (INDA) used the protocols to develop a voluntary guideline for assessing the flushability of wet wipes and other products dispensed on nonwoven fabrics. In 2009, INDA and its counterpart, the European Disposables and Nonwoven Association (EDANA), released a second edition as well as the Don't Flush logo at right.

## Utilities are engineering the problem away at significant capital cost

— Rob Villee, collection systems committee chair, Water Environment Federation

As it turned out, the research upon which the test methods are based focused on the wastewater treatment process and plant impacts. It didn't fully address upstream collections systems. So it wasn't until 2010 that I and a few others in the wastewater industry realized the disconnect between upstream/downstream impacts and the need for flushables to disperse more rapidly.

In 2010, California Assembly Member Jared Huffman introduced legislation (AB 2256) to amend the state's Health and Safety Code to require labeling and third-party verification of flushability and dispersibility. The bill was moving through committee with passing votes but placed on hold at INDA's request. INDA funded a field study at the Central

Contra Costa Sanitary District's Moraga pump station, where pumps seized three to four times a month. Clog composition, more details of which are at <http://go.hw.net/moraga>, include:

- 70% household cleaning wipes and personal hygiene (baby wipes, facial wipes, strong nonwoven articles with a sheet size of 6x8 inches, and baby/toddler embossed patterns)
- 19% feminine hygiene (tampons, feminine pads, liners, tampon applicators, and wrappers for tampons and pads)
- 10% other (including but not limited to condoms, floss, plastics, plastic packaging/wrapper, bottle tops, and roots)
- 1% paper towels

INDA agreed to improve product labeling, testing, and public education but attempted to shift the focus from “flushable wipes” to the broader category of “disposable products.”

In the near future, INDA plans to release a third edition of the *Guidance Document for Assessing the Flushability of Nonwoven Consumer Products*.

In 2011, Maine became the second state to introduce legislation (LD 781) establishing standards for consumer products advertised as flushable.

The Joint Standing Committee on Environment and Natural Resources voted “Ought Not Pass” in January 2012 with the condition that manufacturers gain a better understanding of and propose solutions to the problem. INDA agreed to participate in a pilot public education program targeting products that had been identified in a two-day field study at the Portland Water District's Westbrook pump station and customers that live near the pump station where acute clogging persists. On Aug. 1 – 2, 2012, INDA conducted the first consumer focus group study in Maine and we're waiting for the official report.

Our ammunition: metrics

One problem we hear about a lot is that consumers are confused by all the different product labeling. If they exist at all, instructions for proper disposal are

(continued)



## A PICTURE'S WORTH A THOUSAND WORDS

Visit [www.inda.org/issues-advocacy/flushability](http://www.inda.org/issues-advocacy/flushability) to download this logo and see the results of the Association of the Nonwoven Fabrics Industry's (INDA) study of clog materials at California's Central Contra Costa Sanitary District in the Town of Moraga. Source: INDA

## FOR MORE INFORMATION

Maine Wastewater Control Association  
[www.mwwca.org](http://www.mwwca.org)

National Association of Clean Water Agencies “The Water Voice”  
<http://go.hw.net/flushablewipes>

Orange County Sanitation District  
[www.what2flush.com](http://www.what2flush.com)

Water Environment Federation's Collections System Committee  
[www.wef.org/CSC](http://www.wef.org/CSC)



In California, Central Contra Costa Sanitary District crews use a three-tined handheld gardening tool to separate pump clog debris into components like these.

inconsistent, printed in tiny type, and hidden on the back of packaging. In Europe, EDANA has been much more successful with implementing a universal nonflushable symbol and has a standardized "Manufacturers' Code of Practice on Communicating Disposal Pathways for Personal Hygiene Wet Wipes."

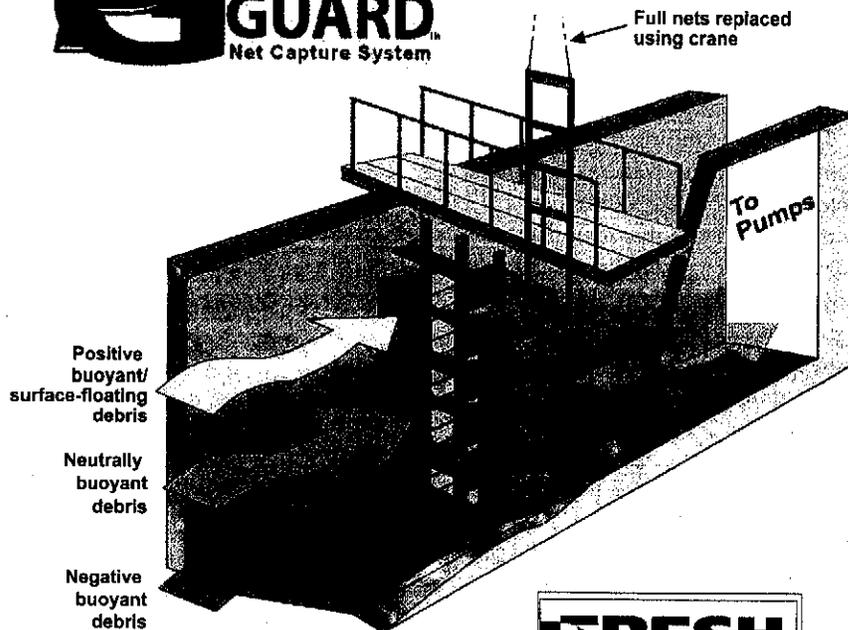
But here in North America, wastewater agencies have been leading the way. WEF is working on adding instructions for nondispersibles to its "It's a Toilet, Not a Trashcan" bill stuffer. Many of you have spent taxpayer dollars telling those same taxpayers what they shouldn't flush. We here in Orange County have conducted outreach for many years and just launched a new campaign called "What 2 Flush" ([www.what2flush.com](http://www.what2flush.com)). We've boiled down our message to three elements: Flush only the "three Ps" — pee, poo, and toilet paper.

I think the only way we're going to influence meaningful change is to join forces and demonstrate what's happening on a national scale. The American Public Works Association (APWA) and National Association of Clean Water Agencies (NACWA) are working with WEF. You can help by:

1. Conducting characterization studies or forensics to determine the cause and composition of clogs and identify the material responsible. Collect data on types of material and volume. The Maine Wastewater Control Association's "Standard Operating Procedure for Evaluation Materials in Pump Clogs and Sewer Obstructions" is a good start for a standardized methodology.
2. Collecting and documenting all costs: labor hours, labor costs, preventive and corrective maintenance

(continued)

## PUMP GUARD™ Net Capture System



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The **PumpGuard™** Net Capture System's primary purpose is to protect pumps, rotating equipment, disinfection systems and/or any other machinery from potential damage by removing neutrally buoyant material from the waste stream. **PumpGuard™** can be designed to operate between the primary and secondary clarifiers, in conjunction with lift stations or anywhere the removal of debris and floatables is desired. Shown here, the system is installed in the retention basin and consists of two, five-net racks that can be easily lifted from the framework for removal. When the nets become full they are replaced with new nets.

For more information contact:  
**Fresh Creek Technologies, Inc.**  
1384 Pompton Ave. - Suite 2  
Cedar Grove, NJ 07009  
Call: 1-800-714-9486  
Fax: 973-237-0744  
email: [fresh@freshcreek.com](mailto:fresh@freshcreek.com)  
or visit:  
[www.freshcreek.com](http://www.freshcreek.com)

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- events, equipment repair and replacement costs, hauling fees, and sanitary sewer overflow fines.
3. Working with your local APWA, NACWA, and/or WEF chapter on understanding local issues and providing information they can use at the national level.

Bottom line: We must focus on keeping nondispersibles out of the toilet. Labeling and proper disposal instructions need to be improved and universally consistent to avoid consumer confusion. We also need to advocate for “dispersibility vs. flushability” and extended producer responsibility. **PW**



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## NONWOVEN FABRICS

It can look like fabric, but it isn't. Unlike cotton or wool, the raw ingredient in “nonwoven fabrics” — softwood fluff pulp fibers — doesn't have to be converted to yarn before being woven or knitted. Instead, the fibers are separated and then bound with plastic-based foam or fused with heat.

The Association of the Nonwoven Fabrics Industry, known internationally as INDA, defines nonwovens as:

*A fabric made directly from a web of fiber, without the yarn preparation necessary for weaving and knitting. In a nonwoven, the assembly of textile fibers is held together by:*

- 1) Mechanical interlocking in a random web or mat
- 2) Fusing of the fibers, the case of thermoplastic fibers
- 3) Bonding with a cementing medium such as starch, casein, rubber latex, a cellulose derivative, or synthetic resin.

*Initially, the fibers may be oriented in one direction or may be deposited in a random manner. This web or sheet is then bonded together by one of the methods described above. Fiber lengths can range from 0.25 inch to 6 inches for crimped fibers up to continuous filament in spunbonded fabrics.*

In addition to water filters, a subset of nonwoven fabrics called geotextiles is used to repair asphalt cracks, control erosion, and seal landfills. Their liquid and flame repellency, strength, and filtering capability make them ideal for such applications, but also render them nondispersible: difficult to break down in water.

— *Arhontes (arhontes@ocsd.com) is director of facilities support services for the Orange County Sanitation District in Fountain Valley, Calif. Photos: Senior Public Information Specialist Ingrid Hellebrand (ihellebrand@ocsd.com).*

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City of Brownsville

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Clerk \_\_\_\_\_

– IMPORTANT NOTICE –

## **Preliminary 2012 Population Estimate**

November 15, 2012

To: Brownsville city

Listed below is the preliminary population estimate for July 1, 2012. Also included are the certified 2011 estimate and 2010 Census figure. The July 1, 2012 estimate will be certified by December 15, 2012.

**PRELIMINARY POPULATION ESTIMATE:**

**JULY 1, 2012: 1,670**

**CERTIFIED POPULATION ESTIMATE:**

**JULY 1, 2011: 1,670**

**CERTIFIED CENSUS FIGURE:**

**APRIL 1, 2010: 1,668**

If you have any questions, please contact:

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From: [Public Works 2012](#)

Posted on: November 19, 2012

## UMD-led study identifies 'Superbug' MRSA in U.S. wastewater treatment plants

A team led by researchers at the University of Maryland School of Public Health has found that the "superbug" methicillin-resistant *Staphylococcus aureus* (MRSA) is prevalent at several U.S. wastewater treatment plants (WWTPs). MRSA is well-known for causing difficult-to-treat and potentially fatal bacterial infections in hospital patients, but since the late 1990s it has also been infecting otherwise healthy people in community settings.

"MRSA infections acquired outside of hospital settings -- known as community-acquired MRSA or CA-MRSA-- are on the rise and can be just as severe as hospital-acquired MRSA," says Amy R. Sapkota, assistant professor in the Maryland Institute for Applied Environmental Health and research study leader. "However, we still do not fully understand the potential environmental sources of MRSA or how people in the community come in contact with this microorganism. This was the first study to investigate U.S. wastewater as a potential environmental reservoir of MRSA."

Because infected people can shed MRSA from their nostrils and skin and through their feces, wastewater treatment plants are a likely reservoir for the bacteria. Swedish researchers have previously identified the presence of MRSA in WWTPs in Sweden, and this new UMD-led study confirms the presence of MRSA in U.S. facilities. The study was published in the November issue of the journal *Environmental Health Perspectives*.

The research team, including University of Maryland School of Public Health and University of Nebraska Medical Center researchers, collected wastewater samples throughout the treatment process at two Mid-Atlantic and two Midwestern WWTPs. These plants were chosen, in part, because treated effluent discharged from these plants is reused as "reclaimed wastewater" in spray irrigation activities. The researchers were interested in whether MRSA remained in the effluent.

They found that MRSA, as well as a related pathogen, methicillin-susceptible *Staphylococcus aureus* (MSSA), were present at all four WWTPs, with MRSA in half of all samples and MSSA in 55 percent.

MRSA was present in 83 percent of the influent -- the raw sewage -- at all plants, but the percentage of MRSA-and MSSA-positive samples decreased as treatment progressed. Only one WWTP had the bacteria in the treated water leaving the plant, and this was at a plant that does not regularly use chlorination, a tertiary step in wastewater treatment.

Ninety-three percent of the MRSA strains that were isolated from the wastewater and 29 percent of MSSA strains were resistant to two or more classes of antibiotics, including several that the U.S. Food and Drug Administration has specifically approved for treating MRSA infections.

At two WWTPs, MRSA strains showed resistance to more antibiotics and greater prevalence of a gene associated with virulence at subsequent treatment stages, until tertiary chlorination treatment appeared to eliminate all MRSA. This suggests that while WWTPs effectively reduce MRSA and MSSA from influent

to effluent, they may select for increased antibiotic resistance and virulence, particularly at those facilities that do not employ tertiary treatment with chlorination.

"Our findings raise potential public health concerns for wastewater treatment plant workers and individuals exposed to reclaimed wastewater," says Rachel Rosenberg Goldstein, environmental health doctoral student in the School of Public Health and the study's first author. "Because of increasing use of reclaimed wastewater, further study is needed to evaluate the risk of exposure to antibiotic-resistant bacteria in treated wastewater."

## Keywords

Subject

Wastewater

Organization

University of Maryland

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From: Public Works 2012

Posted on: November 19, 2012

## Cleanup of most challenging U.S. contaminated groundwater sites unlikely for many decades

At least 126,000 sites across the U.S. have contaminated groundwater that requires remediation, and about 10 percent of these sites are considered "complex," meaning restoration is unlikely to be achieved in the next 50 to 100 years due to technological limitations, says a new report from the National Research Council. The report adds that the estimated cost of complete cleanup at these sites ranges from \$110B to \$127B, but the figures for both the number of sites and costs are likely underestimates.

Several national and state groundwater cleanup programs developed over the last three decades under various federal and state agencies aim to mitigate the human health and ecological risks posed by underground contamination. These programs include cleanup at Superfund sites; facilities that treat, store, and dispose of hazardous wastes; leaking underground storage tanks; and federal facilities, such as military installations. The U.S. Department of Defense has already spent approximately \$30B in hazardous waste remediation to address past legacies of its industrial operations. DOD sites represent approximately 3.4 percent of the total active remediation sites, but many of these sites present the greatest technical challenges to restoration with very high costs. Therefore, the agency asked the National Research Council to examine the future of groundwater remediation efforts and the challenges facing the U.S. Army and other responsible agencies as they pursue site closures.

"The complete removal of contaminants from groundwater at possibly thousands of complex sites in the U.S. is unlikely, and no technology innovations appear in the near time horizon that could overcome the challenges of restoring contaminated groundwater to drinking water standards," said Michael Kavanaugh, chair of the committee that wrote the report and a principal with Geosyntec Consultants, Inc. in Oakland, Calif. "At many of these complex sites, a point of diminishing returns will often occur as contaminants in groundwater remain stalled at levels above drinking water standards despite continued active remedial efforts. We are recommending a formal evaluation be made at the appropriate time in the life cycle of a site to decide whether to transition the sites to active or passive long-term management."

The estimated range of remediation costs do not account for technical barriers to complete cleanup at complex sites or the costs of cleanup at future sites where groundwater may become contaminated, the committee said. A substantial portion of the costs will come from public sources as some of complex sites are "orphan" sites and many other complex sites are the responsibility of federal or state agencies.

The committee said that the nomenclature for the phases of site cleanup and cleanup progress are inconsistent among public and private sector organizations, which could confuse the public and other stakeholders about the concept of "site closure." For example, many sites thought of as "closed" and considered "successes" still have contamination and will require continued oversight and funding over extended timeframes in order to maintain protectiveness, including 50 percent of the contaminated groundwater sites evaluated by the committee that have been deleted from the Superfund list. More

consistent and transparent terminology that simply and clearly explains the different stages of cleanup and progress would improve communication with the public.

"The central theme of this report is how the nation should deal with those sites where residual contamination will remain above levels needed to achieve restoration," Kavanaugh stated. "In the opinion of the committee, this finding needs to inform decision making at these complex sites, including a more comprehensive use of risk assessment methods, and support for a national research and development program that leads to innovative tools to ensure protectiveness where residual contamination persists. In all cases, the final end state of these sites has to be protective of human health and the environment consistent with the existing legal framework, but a more rapid transition will reduce life-cycle costs. Some residual contamination will persist at these sites and future national strategies need to account for this fact."

The committee said that if a remedy at a site reaches a point where continuing expenditures bring little or no reduction of risk prior to attaining drinking water standards, a reevaluation of the future approach to cleaning up the site, called a transition assessment, should occur. The committee concluded that cost savings are anticipated from timelier implementation of the transition assessment process but funding will still be needed to maintain long-term management at these complex sites.

The report was sponsored by the U.S. Department of the Army. The National Academy of Sciences, National Academy of Engineering, Institute of Medicine, and National Research Council make up the National Academies. They are private and independent nonprofit institutions that provide science, technology, and health policy advice under an 1863 congressional charter. Panel members, who serve pro bono as volunteers, are chosen by the Academies for each study based on their expertise and experience and must satisfy the Academies' conflict-of-interest standards. The resulting consensus reports undergo external peer review before completion. For more information, [visit here](#).

## Keywords

Subject

[Water](#)

Organization

[National Academy of Sciences](#)

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## More from PUBLIC WORKS



## Drive Less Connect saving money for mid-valley commuters

7 HOURS AGO • BY ALEX PAUL, ALBANY DEMOCRAT-HERALD

With the price of gasoline hovering around \$4, mid-valley families are having to dig deeper into their pockets to pay for the daily commute to work or school.

But Tarah Campi, transportation outreach coordinator with Cascades West Rideshare, said nearly 1,000 people in Linn, Benton and Lincoln counties have found a way to cut those costs dramatically.

Drive Less Connect is a free program that was started in Portland in 2006 by the Oregon Department of Transportation.

"The program launched statewide in November 2011," Campi said. "It's totally free to the public."

It matches commuters in Linn, Benton and Lincoln counties, as well as those in Oregon, Washington and Idaho. Participants log into the Drive Less Connect website ([www.drivelessconnect.com](http://www.drivelessconnect.com)) and register their commute, whether a single event or daily trips.

The computer program provides information that allows the participants to match up in car pools, van pools or even bicycle groups.

The program also allows users to log in their trips and track the number of miles saved each week, greenhouse emissions savings and the estimated monetary savings in gas and maintenance.

The average commuter spends more than \$4,000 per year for fuel. Participation in Drive Less Connect can reduce costs to as little as \$85 per month for van pool riders commuting from Albany to Salem, for example.

Campi said the program has about 950 participants in the three counties, and another 300 or so involved with van pools.

"We are really trying to do a lot of outreach to employers," Campi said. "It may help them reduce employee turnover and also put more money in their employees' pockets. It does matter how employees get to work."

Campi said there are currently 30 van pool routes in the mid-valley, running from as far south as Eugene to as far north as Portland.

Drive Less Connect helps potential van poolers set up lease programs with independent businesses. It's then up to the van poolers to determine how much each will contribute to the cost of operating the vehicle.

“One van pool rider told me she is saving \$500 per month,” Campi said.

Campi said ODOT supports Drives Less Connect because it helps reduce the number of vehicles on the state’s roads, which should extend their lifespans. Also, as the population of Oregon continues to climb, Drive Less Connect can help lessen the need to construct new roads to meet those population shifts.

Campi, who has a master’s degree in public administration from the University of Oregon, said she is also working to provide rewards, such as gift cards to local coffee shops, for program participants.

The program has resulted in an estimated reduction of nearly 22 million vehicle road miles and a saving of more than \$8 million in operating costs for participants.

To learn more about Drive Less Connect, visit [www.drivelessconnect.com](http://www.drivelessconnect.com) or call Campi at 541-924-8480.

# Cascades West Area Commission on Transportation

*Staffed by Oregon Cascades West Council of Governments*

## Notes from October 25, 2012 CWACT Meeting

### **1. Report on ODOT's Road Usage Charge Pilot Program**

Jim Whitty, the Manager of ODOT's Office of Innovative Partnerships and Alternative Funding, provided a report on a pilot program developed with the assistance of the Road User Fee Task Force and consistent with the direction of the Legislative Assembly.

Whitty reported that the increase in vehicle fuel economy standards will result in fewer gallons of fuel consumed and a reduction in revenue to the highway trust fund. ODOT, as a follow up to an effort initiated a decade ago, is reviewing a revenue option based on vehicle miles traveled.

A pilot project that will provide 50 volunteers (including legislators and members of the Oregon Transportation Commission) with the opportunity to pay a charge for miles driven in lieu of fuel tax to help determine if a road usage charge system is viable, that the key system concepts and features are valid, and that the vendor community has the ability to provide and implement the system components required to operate an effective, efficient and open system. The pilot program will run through January 31, 2013 and a report will be provided to the Legislative Assembly in February.

The tenets for a potential future road usage charge system include: (1) no technology mandate; (2) an open system to integrate with existing technology market; (3) choices for motorists; and (4) a private sector administration option.

Questions and comments from members included:

- Whether or not a vehicle miles traveled charge would apply to larger vehicles with low fuel efficiency. The response was probably not since a flat fee option of the program would result in drivers not paying their fair share.
- Whether heavy vehicles which damage roads far more than light vehicles would be covered under a vehicle miles traveled taxation program. The response was the existing weight-mileage charge for trucks that has served Oregon very well for many decades is expected to remain in place.
- A suggestion that an annual trip to the DMV to check the odometer of a vehicle may be a simpler, more pragmatic option.
- A general observation that the majority of the general public may not support the program and enabling legislation will be difficult to pass.

## **2. Report on Oregon Passenger Rail Environmental Impact Statement Project**

ODOT is studying options to improve passenger rail service between the Columbia River in the Portland area and the Eugene-Springfield area – a 125 mile segment. This segment is part of the federally designated Pacific Northwest Rail Corridor which has been the subject of higher-speed passenger rail planning for more than 30 years.

As a part of this study, ODOT and the Federal Railroad Administration are preparing a Tier 1 Environmental Impact Statement (EIS). John Schnaderbeck, the Assistant Project Manager for ODOT, provided an update on the environmental review process which will help ODOT make a number of important decisions, including selection of the general rail alignment and the communities where stations would be located.

The project will also determine several service characteristics, such as the number of daily trips, travel time objectives and the technologies to be used (for example, whether the trains will be powered by electric or diesel-electric engines).

The EIS will evaluate a reasonable range of alternatives for passenger rail including a no action (No Build) alternative.

The draft EIR is scheduled to be completed in early 2014, with the final EIR published in early 2015. If necessary, subsequent projects will use a Tier 2 environmental review which will analyze, at a greater level of detail, narrower site-specific proposals based on the decisions made in the Tier 1 review. A Tier 2 EIR would take 2-3 years to complete.

The project includes a public involvement strategy to ensure stakeholder participation in the decision-making process. A 22 member Leadership Council provides policy direction to ODOT on this effort and will ultimately make recommendations to decision-makers.

Questions and comments from members included:

- Whether the general position of the railroads has changed in the past few years. The response was “not really”. Union Pacific is not receptive to the use of its line for higher speed rail. A dedicated passenger rail line within the UP right of way is a possibility but safety issues would need to be addressed. The other railroads are also not receptive to the use of their lines.
- Whether all options are on the table. “Yes”, including the UP line; the Oregon Electric line; some hybrid of the two lines; the I-5 corridor; and a west side line. Schnaderbeck also noted that all station locations, including new stops, are on the table.
- It was noted that, in addition to the current two round trips per day of the Cascadia rail service, Amtrak operates three “thru-way” round trip buses a day so some train patronage is already being developed. It was also noted that Washington is substantially ahead of Oregon’s higher speed rail effort and has received \$800 million in federal higher speed rail funds.

### **3. Discussion with ODOT Region 2 Manager Sonny Chickering**

Sonny Chickering briefly discussed the “Fix-It” and “Enhance” categories of the 2015-2018 STIP and said that the process will reinforce the prior review process of ACTs. He noted the discussion at OTC meetings about the lack of specific criteria. He said this process was “upside down” from the process used to develop previous STIPs and provides increased flexibility as well as new opportunities and partnerships in the development of projects. He encouraged local agencies, if they submit more than one application, to think about their highest priority project.

Chickering also discussed the 2010-2013 STIP \$20.8 million modernization funds that not yet been allocated to specific projects. Prior to the allocation of the funds Region 2 needed to determine the funding requirements for other projects including projects authorized (and not fully funded) in the 2009 Jobs and Transportation Act.

Chickering reported that the I-5/Beltline project and the Newberg-Dundee Bypass project were re-scoped with significant reductions in the cost of the projects. Some of the savings will be available to fully fund the I-5/Woodburn Interchange project. Additionally, funding has been tentatively identified for the Highway 20 Pioneer Mountain-Eddyville project (OTIA funds, statewide funds and Region 2 funds). At this time, and subject to additional information and the receipt of bids, it appears as though the \$20.8 million in 2010-2013 STIP modernization funds will be available for allocation. Chickering indicated ODOT will involve the four ACTs in Region 2 in the project allocation decisions.

Chickering reported that ODOT is currently recruiting to fill the Regional Solutions Team position and will soon be given authorization to fill the Area 4 Manager position.

Questions and comments from members included:

- A clarification about the negotiated settlement and the time schedule of the Highway 20 Pioneer Mountain-Eddyville project. ODOT has scheduled a March 7 bid opening with construction starting a few months later.
- A question about the role of ACTs in the selection of the “100%” STIP projects in their area. Chickering noted that Region 2, with multiple ACTs and its “Super ACT” process, is unique to ODOT. The “100%” STIP selection process has not yet been settled and ODOT will look to its local partners for input and direction.
- Chickering encouraged smaller communities to submit applications, noting that the new STIP process generally provides a more level playing field for all communities. He offered ODOT’s assistance in helping local communities develop STIP applications.

#### **4. ODOT Area Manager's Report**

Amy Ramsdell reported that ODOT is developing a 150% list for "Fix-IT" STIP projects. When it is completed it will be forwarded to local agencies for their consideration in developing STIP "Enhance" applications that could be linked to the "Fix-It" projects.

Jack Dunaway (City of Toledo) reported that two people were killed in a crash today at the east end of the Highway 20 Pioneer Mountain-Eddyville construction project. He asked if there was a short term mitigation/interim solution to address this dangerous section of the highway. Ramsdell reported that oversized signs are already in place as well as larger than normal/raised rumble strips. ODOT's traffic engineers will be asked to look again at this curve, as well as the curve on the west end of the project. A follow up report will be provided to CWACT members.

#### **5. Next Meeting-December 6**

Since Thanksgiving is on the fourth Thursday in November, CWACT will not meet in November. STIP applications will be received by November 27 and, after initial review by ODOT staff, forwarded to ACTs on December 5. The timing will be tight but a December 6 CWACT meeting will provide members with an opportunity to have information about the number and type of applications and to discuss the review process.

**For additional information or to provide comments and suggestions please contact:  
Mark Volmert (541) 924-8430 [mvolmert@ocwcog.org](mailto:mvolmert@ocwcog.org)  
CWACT website: [ocwcog.org/ccbindex.asp?ccbid=101](http://ocwcog.org/ccbindex.asp?ccbid=101)**

S. Scott McDowell

---

**From:** Darren Perry [Darren.Perry@centrallinn.k12.or.us]  
**Sent:** Friday, November 16, 2012 9:35 AM  
**To:** S. Scott McDowell  
**Subject:** RE: Mock Leadership Project

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Mr. McDowell,

I just wanted to say thanks again for helping us out with our Leadership Project. The students were very impressed with how seriously and involved you were in the project. The students, in turn, took the project more seriously and produced a much better product. I also feel that your involvement empowered many of them to reach out to leaders in the community for help when they have a cause that they believe in. Our project would not have been nearly as successful without your involvement.

Respectfully,  
Darren Perry

=Darren Perry  
Mathematics  
Central Linn Junior/Senior High School  
541-369-2811 ext. 2217

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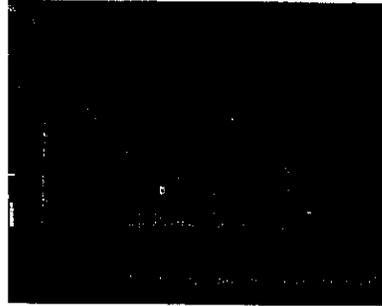
**LEBANON**

Chamber of Commerce & Visitors Center

*It's easier from here*

## Kudos Korner!

Kudos to City and Chamber of **Brownsville Oregon!** They had a ribbon cutting at their new Public Restroom in Pioneer Park last month. If you haven't visited Brownsville lately, you'll want to check them out! This facility was a collaborative effort from many of the companies and citizens!



**Partners For Progress** is wrapping up another successful season of the **Farmers Market!** Kudos to President Dala Johnson, the vendors and the PFP Board members for the great job they did! PFP is busy working on **Holidays in the Park!** Check out their website [www.partners4progress.com](http://www.partners4progress.com) for information about volunteering, vendors and Twilight Parade Registration! Or call Dala at **541-258-4339** or [djohnson@ci.lebanon.or.us](mailto:djohnson@ci.lebanon.or.us)

Kudos to the **Women In Business Committee** who did a great job on arranging for our special WIB Luncheon with Governor Barbara Roberts! Thank you Jennifer Meltzer, Lori Hill, Kristin Hyde, Jessica Langley, Myra Ullifer our hard working committee of 5 Women who can do ANYTHING!!!



Kudos to the **Government Affairs Committee** and a special shout out to Kip Much for the great Candidates Forum the chamber presented. The candidate and the audience felt it was a valuable experience!

Kudos to the **Lebanon Businesses** for continuing the wonderful tradition of trick or treating for the children. This is one of the many things about Lebanon that makes us so special. Thank you for your generous support! Special thanks to Jodi from Hairs Inn who has headed this project up for years!



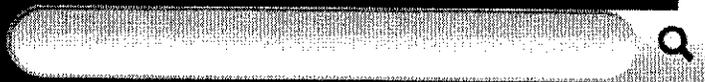
Kudos to **Umpqua Bank** for a great Business After Hours! Jolene and Betty really know how to throw a party!

## Friend?

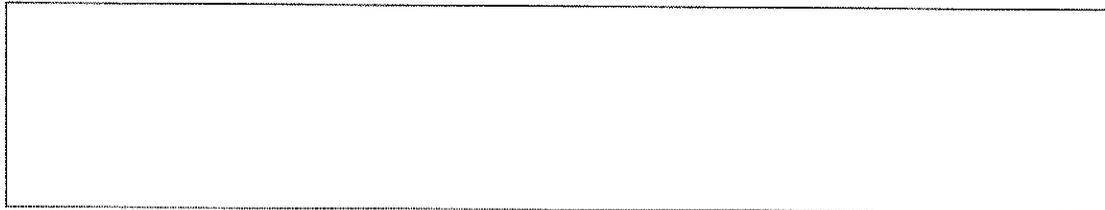


**Cutie pie alert!** Dobie is a 2-year-old Min Pin ready to go home today! This sweet boy does great with other dogs but he does like to be the leader of his dog pack. Dobie is good with kids and is house trained. He loves people and attention so hopes his forever family has lots of time to spend with him. Could your home be Dobie's forever home? Come visit Dobie and all of the adoptable animals at SafeHaven Humane Society today. SafeHaven Humane Society is located at 33071 Hwy 34 SE in Albany. View their adoptable animals online at [safehavenhumane.org](http://safehavenhumane.org). Their number is **541-928-2789**





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HOME > TOPICS > PENSION REFORM > LOS ANGELES MOVES TO CUT EMPLOYEE PENSIONS



# Los Angeles moves to cut employee pensions

## New city workers will have fewer retirement benefits

Larry Conley | American City and County

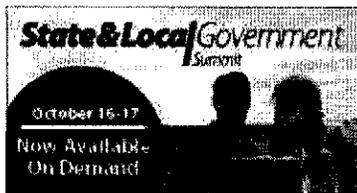
Sep. 28, 2012

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Amid boos and shouts from angry city workers, the Los Angeles City Council voted to approve sweeping pension cuts for all new civilian employees. The changes raise the full retirement age to 65 for new hires, eliminate city-funded healthcare for spouses of retired workers

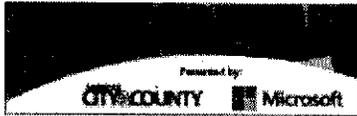
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and cut pensions by as much as two-thirds, according to the Los Angeles Times.

The measures only apply to newly hired civilian workers, exempting police officers, firefighters and

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Department of Water and Power employees. The council must take a second vote within 30 days for the changes to go into effect.

Mayor Antonio Villaraigosa and local business leaders said the changes were needed to avert financial catastrophe from rising pension costs. Labor union leaders said the city could costs in other ways — such as ending double dipping by some City Council members — and charge that the council vote violated collective bargaining rules. They have threatened a lawsuit.

The pension changes in Los Angeles are similar to those enacted by other state and local governments, essentially setting up a two-tiered retirement system with different rules for current and new employees. In Los Angeles, for example, new employees' take-home pay could be reduced in years when their retirement fund takes a hit in the stock market.

In recent years, public employees have seen dramatic changes in retirement benefits in many local governments, from states such as California and Rhode Island, to cities like San Jose and San Diego, Calif. The most common changes include raising the retirement age, limiting annual payouts and increasing employee contributions to pensions and health care.



### Discuss this Article 2

**Anonymous (not verified)** on Oct 2, 2012

I think this is very wrong to treat other employee different from the Police, Fire and Water and Power employees. They all work for the city and should be treated the same.

reply

**Anonymous (not verified)** on Oct 16, 2012

absolutely

reply

NAME:

Anonymous

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# Statement of Revenues & Expenditures

City of Brownsville

For Period Ending 10/31/2012

Selecting on TYPE equals 900

ACCOUNT DESCRIPTION	CURRENT YEAR		CURRENT PERIOD		CURRENT YEAR YEAR-TO-DATE		% USED
	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	
Totals for FUND: 100 (GENERAL)	1,265,903.00	8,782.02	1,265,903.00	180,250.79	14.24		
Totals for FUND: 200 (WATER)	1,148,450.00	9,111.65	1,148,450.00	111,866.13	9.74		
Totals for FUND: 210 (SEWER)	949,600.00	3,648.39	949,600.00	56,200.17	5.92		
Totals for FUND: 300 (STREETS)	507,100.00	3,250.55	507,100.00	30,278.39	5.97		
Totals for FUND: 450 (WATER BOND)	75,077.00		75,077.00		0.00		
Totals for FUND: 460 (SEWER BOND FUND)	418,174.00		418,174.00	332,072.00	79.41		
Totals for FUND: 500 (BUILDING & EQUIPMENT)	320,000.00		320,000.00		0.00		
Totals for FUND: 550 (WATER RESERVE)	1,300.00		1,300.00		0.00		
Totals for FUND: 600 (HOUSING REHAB)	199,000.00		199,000.00		0.00		
Totals for FUND: 700 (WATER SDC)	179,000.00		179,000.00		0.00		
Totals for FUND: 720 (SEWER SDC RESERVE FUND)	235,000.00		235,000.00		0.00		
Totals for FUND: 730 (STORMWATER SDC)	36,700.00		36,700.00		0.00		
Totals for FUND: 750 (BIKEWAY/PATHS)	29,100.00		29,100.00		0.00		
Totals for FUND: 800 (LIBRARY TRUST)	6,050.00		6,050.00		0.00		
Totals for FUND: 850 (CEMETERY)	64,500.00		64,500.00		0.00		
Totals for FUND: 875 (TRANSIENT ROOM TAX)	1,900.00		1,900.00		0.00		
Totals for FUND: 905 (SEWER IMPROVEMENT CONSTR. FUND)					N/A		
Totals for FUND: 911 (LAND ACQUISITION)					N/A		
Totals for FUND: 916 (COMMUNITY PROJECTS)	245,500.00	5,120.30	245,500.00	67,960.79	27.68		
Total Expenditures	5,682,354.00	29,912.91	5,682,354.00	778,628.27	13.70		

Excess of Revenues over Expenditures for Report