



# CITY OF BROWNSVILLE

## Council Meeting

Tuesday – February 28<sup>th</sup>, 2017

**Regular Session      7:00 p.m.**

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## 2017

March						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
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9	10	11	12	13	14	15
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23	24	25	26	27	28	29
30						

Holidays and Observances: 13: Thomas Jefferson's Birthday, 18: Easter Sunday

May 2017						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
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## **CITY OF BROWNSVILLE**

### **Council Meeting**

City Hall – Council Chambers  
Tuesday, February 28<sup>th</sup>, 2017

#### **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: January 24<sup>th</sup>, 2017
- 6) PUBLIC HEARINGS OR PRESENTATIONS:
  - A. Amanda Wright Recognition
  - B. Nan Van Sandt Farewell
  - C. Josh Metcalf & Scott Gagner – Sweet Home Sanitation
  - D. Central Linn Recreation Association Annual Report
  - E. City Website Review
- 7) DEPARTMENT REPORTS:
  - A. Sheriff
  - B. Public Works
  - C. Administration
  - D. Library
  - E. Court
  - F. Council

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.



## 8) CITIZEN COMMENTS (Non-agenda & Agenda items)

- ✦ Council asks that comments be limited to three minutes per audience member. Please state your name and address prior to commenting for the public record.

## 9) LEGISLATIVE:

- A. **Resolution 2017.05:** Solid Waste Rates
- B. **Ordinance 765:** Utility Billing Additions (*Second Reading*)
- C. **Ordinance 766:** Public Safety (*Second Reading*)
- D. **Ordinance 767:** Public Parking (*First Reading*)

## 10) ACTION ITEMS:

- A. Central Linn Recreation Association Agreement
- B. Appoint Planning Commission Member
- C. Pay.gov Contract
- D. Amanda Wright Proclamation

## 11) DISCUSSION ITEMS:

- A. Central Linn School Board & Blakely Avenue
- B. Solar Eclipse – August 21<sup>st</sup>, 2017
- C. 2015-2016 Goals Review
- D. January Financials

## 12) CITIZEN QUESTIONS & COMMENTS

- ✦ Council asks that comments be limited to three minutes per audience member. Please state your name and address prior to commenting for the public record.

## 13) COUNCIL QUESTIONS & COMMENTS

## 14) 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

January 24<sup>th</sup>, 2017

**ROLL CALL:** Mayor Don Ware called the meeting to order at 7:00 p.m. with Councilors Neddeau, Gerber, Cole, Shepherd, and Chambers present. Councilor Van Sandt was unable to attend. Administrative Assistant Tammi Morrow, Public Works Superintendent Karl Frink and City Administrator Scott McDowell were also present.

**PUBLIC:** Kaye Fox, June Schlosser, Ron Whitted, Doug Block, Kim Clayton, Jerry Papineau, Captain Kevin Guilford and Greg Newman (*LCSO*), Elizabeth Coleman, Jannea Deaver, Jorden Parrish (*The Times*), and Alex Paul (*Democrat-Herald*).

The pledge of allegiance was recited.

**ADDITIONS AND DELETIONS:** None.

**MINUTES:** Councilor Gerber made a motion to approve the December 20<sup>th</sup>, 2016 meeting minutes as presented. Councilor Shepherd seconded the motion, and it passed unanimously.

### **PUBLIC HEARINGS OR PRESENTATIONS:**

**Oaths and Affirmations of Office – Judge Jad Lemhouse.** Judge Lemhouse requested that newly elected Council members Doug Block, Carla Gerber, and Lynda Chambers come to the front of the room to perform the Oath of Office ceremony. The group raised their right hands and were duly sworn in by Judge Lemhouse. Judge Lemhouse congratulated the new officials on their appointments.

### **DEPARTMENT REPORTS:**

1. **Sheriff's Report.** LCSO Captain Guilford congratulated the new Council members on their appointments. He reported that LCSO issued 17 citations, 16 traffic warnings, 22 hours spent on traffic for a total of 213 hours spent in Brownsville for the month of December. Deputy Newman was present as well and reported on the ongoing investigation of several recent burglaries around town. The main perpetrator is still currently lodged in Linn County Jail, with several juveniles also cited and released. Mr. McDowell asked Deputy Newman to share his thoughts on the current Recreational Vehicle policy. Newman stated that the Brownsville Municipal Code is currently written in a way that makes it difficult to enforce. Along the same lines, Council will be asked to look at a new resolution dealing with harassment and vagrancy. This new ordinance will greatly help the Sheriff's Office with enforcement issues regarding public safety.
2. **Public Works.** Public Works Superintendent Karl Frink reported that all instruments have been calibrated at the Water Treatment Plant; a process that is required every 3 months. He is happy to report that the City had no permit violations this year. Frink reported that a couple of damaged trees have been removed, and the leaf cleanup in Pioneer Park is underway. Public Works has also been replacing traffic signs around town. In all, the City has over 100 signs in town, and there are still a few more to be installed. You may notice new signs in intersections that have previously not had them before. The red shed project has been completed, and is now just waiting for weather warm enough to finish the caulking and painting. Councilor Cole asked what a permit violation entails? Mr. Frink replied that basically the City does a lot of required testing to make sure that there is only a certain percentage of contaminants in the water before discharge



## Council Minutes

into the river. The test results monitor several contaminants such as ecoli, total suspended solids, etc. When Frink receives the lab reports back, he is required to report any violations to DEQ. Cole remarked that the Red Shed project came out very nicely. Councilor Chambers inquired about who is in charge of the street sign placements. Frink reported that the City does not have a program or ordinance for each sign. Street sign standards changed every few year, and when replaced the City is required to bring the signs up to the current Manual of Uniform Traffic Control Devices (MUTCD) Code published by the Federal Highway Administration. The new signs have reflectors on them, are very bright, and the minimum size is 30".

3. **Administrator's Report.** Mr. McDowell reported that he and Mayor Ware have been to a series of meetings with other rural cities concerning the LCSO contract. They have also had the first meeting with Sheriff Riley and his Staff on January 13<sup>th</sup>, 2017. The meeting went well. A follow-up meeting in February is scheduled. The basic complaint is that the cities need to get the results that the communities want to see for the service that all communities are paying for as extra services. Most of the cities (Halsey, Harrisburg, Millersburg, Mill City, Scio, and Brownsville) have the same concerns that we do.

McDowell has been actively working with the GO Team on a regional proposal. Several key players have been identified as well as three focus areas. McDowell anticipates some action on the project soon, hopefully in February.

McDowell and Mrs. Coleman have initiated an investigation concerning the Urban Growth Boundary (UGB) with David Kinney. Mr. Kinney approximates that the project will cost about \$40,000. Once concern for residential expansion is that that are some areas that could be utilized within the UGB. McDowell will be taking this project to discussion with the Budget Committee as well as Council in the near future in regards to funding and logistical steps needed.

Pages 47 & 48 in your packet highlight reoccurring legislation and reviews. McDowell provided this document to give Council a reminder of what legislation typically happens throughout the year, not to mention all of the other things Council handles.

The RV situation has already been discussed tonight. In the near future Council will be asked to take a look at the Brownsville Municipal Code to make improvements for LCSO and Staff.

The City has been informed that there will not be a formal Chamber sponsored annual event of Stand By Me this year. They have opted to not rent park facilities, etc. Consequently park facilities have been rented out for a family reunion including the Central Linn Rec Center.

Councilor Chambers stated that as she took her oath of office tonight for her next term, she is very concerned about the differing stands on the law and how it pertains to her as she carries out her duties as a Councilor. She has written to several of our local government representatives (Defazio, Merkley, and Wyden) and expressed her concerns particularly in regards to marijuana still being illegal federally, but is somehow State sanctioned. Councilor Cole remarked that she would like to hear what those elected officials have to say. Cole also asked if the Simpson's have an open date for their medical marijuana facility. Mr. McDowell responded as to the application process they are required to complete. They first will have to get their conditional use certified, the City will have to complete a Land Use Compatibility Statement (LUCS) and then the application will be sent on to the Oregon Health Authority (OHA), and then they will get an open date shortly after that. It is important to note that another conditional use application would be needed to allow recreational marijuana sales as that business is supervised by a different State entity, OLCC not OHA.



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4. **Library Report.** No comments.
5. **Court Report.** No comments.
6. **Council Comments.** Councilor Shepherd commented that on page 49 of the packet you will find electronic leashes information. He has done some research and found that this leash is actually a training collar and can cause a dog to go “nut-so” on another dog or human. He would like Council to take this under advisement in case this matter is brought up to Council again.
7. **Citizen Comments.** Kaye Fox stated that she was present at the Planning Commission meeting last night and voiced some concerns about the approval of the conditional use application from Randy Simpson and Gayle Ashford regarding the opening of a medical marijuana facility on Bishop Way. Their ill-treatment of City Staff and the citizens of the community should not be tolerated. She requested that they conduct themselves in a better manner. The Simpson’s did not respond to her comments or request. Mrs. Fox also wanted it noted that there are big gaps of time in the Sheriff’s report showing their presence in town. Her issue is that the City’s traffic problems continue every day, and she would like to see more coverage on a more consistent basis.

### **LEGISLATIVE:**

1. **Resolution 2017.01 – Pro-Tempore Judge Appoint.**  
*Councilor Cole moved to approve and adopt R 2017.01 as presented. Councilor Chambers seconded the motion, and the motion passed unanimously.*
2. **Resolution 2017.02– Commitment to Safety Program.**  
*Councilor Gerber moved to approve R 2017.02. Councilor Cole seconded the motion, and the motion passed unanimously.*
3. **Resolution 2017.03 – Recognize Nan Van Sandt’s Public Service.**  
Mr. McDowell presented to Council the matted frame and engraved pen that will be presented to Mrs. Van Sandt as a parting gift of appreciation.  
*Councilor Cole moved to approve R 2017.03 thanking Mrs. Van Sandt for her terrific public service to the City. Councilor Gerber seconded the motion, and the motion passed unanimously.*
4. **Resolution 2017.04 – Disburse Transient Room Tax Funds.**  
*Councilor Cole moved to approve R 2017.04 as presented. Councilor Gerber seconded the motion, and the motion passed unanimously. Councilor Cole asked what the Chamber typically spends this funding on? McDowell responded that the Chamber has a robust event schedule, including the Antique Fair, as well as sponsoring the summer flower baskets and promotes Brownsville during the course of the year for tourism purposes. McDowell feels that the business community and the City receive a good return on the transient room tax ordinance.*
5. **Ordinance 765 – Utility Billing Additions (First Reading).**



## Council Minutes

*Councilor Chambers moved to read O 765 by title only. Councilor Cole seconded the motion, and the motion passed unanimously. Mr. McDowell stated that this ordinance is clearly laid out, but welcomes Council input. The City has about 2 dozen habitually late customers. The new ordinance language cleans up existing language, and puts practice into place as it should be, with onus on the users, not Staff. Councilor Gerber inquired about the extreme hardship language and if that will be difficult to define and implement? McDowell responded that the language is pretty clear and Staff have a lot of latitude that allows for good, consistent decisions to be made on an account by account basis. Basically, customers deal with Staff first and if not satisfied they will be directed to Council via agenda. McDowell stated that in the ten years he has been here, there have been no complaints that have had to be heard by Council. Councilor Chambers and Councilor Neddeau met with McDowell and Administrative Assistant Jannea Deaver for input on this new language and implementation before it was brought to Council. Councilor Neddeau did say that some of the concerns Council Gerber raised were addressed in the meeting.*

### **6. Ordinance 766 – Public Safety (First Reading).**

*Councilor Gerber moved to read O 766 by title only. Councilor Cole seconded the motion, and the motion passed unanimously. Mayor Don Ware read ordinance by title. McDowell stated that this ordinance is needed due to the recent increase of harassment and unsavory situations in town and the park over the past few years. The language was provided by Deputy Newman and was taken from the Albany Municipal Code. Mayor Don Ware would like to see “electronic means” incorporated into the language. Council concurred. McDowell will update the language for the next reading and present it to Council in February.*

### **ACTION ITEMS:**

#### **1. Elect Council President (Two Year Term).**

*Councilor Cole made a motion to re-elect Councilor Chambers as Council President. Councilor Shepherd nominated Councilor Gerber as Council President. Councilor Block seconded the motion. A vote was called for with Councilor Cole, Neddeau and Gerber voting for Councilor Chambers and Councilors Block, Shepherd, Chambers and Mayor Don Ware voting for Councilor Gerber. Gerber won the nomination and is willing to serve as Council President.*

#### **2. Appoint Cascade West Council of Governments Representative (Two Year Term).**

*Councilor Cole made a motion to appoint Councilor Block as CWCOG Representative. Councilor Gerber seconded the motion. The group meets every other month from 2:00 – 4:00 p.m. on a Thursday. Councilor Block said that he would rather not be this representative as it interferes with his work schedule. Councilor Shepherd nominated Councilor Neddeau for this position. Councilor Gerber seconded the motion, and it was approved unanimously. Neddeau accepted the appointment.*

#### **3. Appoint Central Linn Recreation Board Liaison (Two Year Term).**

*Mayor Don Ware stated that he felt it was important to have a representative at*





## Council Minutes

this monthly meeting. *Councilor Cole nominated Councilor Block for this position. Councilor Gerber seconded the motion, and it was approved unanimously.* Block accepted the appointment.

#### 4. **Budget Committee & Planning Commission Advertisements.**

McDowell reported that this is just an annual reminder as it is standard reporting practice for Mr. McDowell to post advertisements for the budget and openings as needed. There is an opening on the Planning Commission. Council will see an advertisement for that soon.

#### 5. **Approve Total Maximum Daily Load (TMDL) Plan.**

Mayor Don Ware complimented McDowell on the document and the beautiful summary. McDowell reported that this document is just basically telling the City's story which is a story about limited funds and many capital improvements projects that have dominated the budgeting landscape over the last nine years. The City has no funding with which to accomplish the end to which the TMDL is driving toward. The City is trying to do the parts and pieces that we feel are appropriate for us to do, and the City does try to mitigate drainage problems whenever possible. McDowell is asking for Council to pass this tonight, and then this document will be forwarded to DEQ, and we may receive recommendations back from them. *Councilor Cole made a motion to accept the TMDL Plan as presented. Councilor Gerber seconded the motion, and it passed unanimously.* Councilor Cole asked if the City has tried developing a cooperative movement like with the agreement for the LCSO. Can the City partner with other small cities in regards to TMDL? McDowell responded that everyone seems to be doing their own thing. McDowell and a few others have tried, but the results have not been good at all. Efforts will continue to be made toward this end.

#### 6. **Central Linn School Board.**

Councilor Shepherd suggested that a contingent meet with CLSD board members. *Councilor Gerber made a motion to authorize Mayor Don Ware and Councilor Shepherd to arrange informational meetings with school representatives. Councilor Cole seconded the motion, and it passed unanimously.*

### **DISCUSSION ITEMS:**

#### 1. **Set Goal Setting Sessions.**

A doodle poll has indicated that March 11<sup>th</sup>, 2017 seems to be the best date for all members to attend this important goal setting training session. Please mark your calendars! The hours are from 8:00 a.m. – 12:00 p.m.; breakfast and lunch will be provided. At that meeting the group will schedule another time to capstone that session, perhaps before an upcoming Council meeting.

#### 2. **December Financials.** No comments.

**CITIZENS COMMENTS** – No comments.



## Council Minutes

**COUNCIL COMMENTS** – Mr. McDowell invited Council to “test drive” the four chairs presented and express your opinions by vote for Council chair replacement.

**EXECUTIVE SESSION** was entered at 8:11 p.m.

- Council will be reviewing the performance of the City Administrator.
- Oregon Revised Statutes, Chapter 192.660 governs the conditions for a public body to convene in an Executive Session. The City will invoke Section (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.
- Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session.
- A final decision may be made after this Session.

**EXIT EXECUTIVE SESSION** at 8:24 p.m.

*Councilor Gerber moved to adjourn the executive session at 8:24 p.m. Councilor Cole seconded the motion, and it passed unanimously.*

**ADJOURNMENT:** *Councilor Cole moved to adjourn the Council meeting at 8:25 p.m. Councilor Gerber seconded the motion, and it passed unanimously.*

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City Administrator S. Scott McDowell

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Mayor Don Ware



# City Administrator Report

February 28<sup>th</sup>, 2017

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

### One liner of the month

😊 FedEx and UPS are thinking of merging. The new company will be called FedUP. 😊

**Note:** The first section of this report is important because it provides information and a brief overview of the topics to be discussed the night of Council. If an item title is **highlighted in green**, that indicates the item is part of Council Goals which are on the Council room wall or in the budget. When you see this symbol ☐, it means I will provide more information at the meeting.

“Never give in except to convictions of honor and good sense.”  
~ *Winston Churchill*

“The organization is, above all, social. It is people.”  
~ *Peter Drucker*

“Many of us are more capable than some of us, but none of us is as capable as all of us.”  
~ *Tom Wilson, Cartoonist*

“Management is doing things right; leadership is doing the right things.”  
– *Dr. Peter F. Drucker*



### **AGENDA ITEMS DISCUSSION – The following items follow the order of the Agenda**

#### 6) PUBLIC HEARINGS OR PRESENTATIONS:

- A. **Amanda Wright:** Please refer to the proclamation included in the packet.
- B. **Nan Van Sandt:** Former Council Nan Van Sandt wanted to say goodbye and was unable to make it last month.
- C. **Sweet Home Sanitation Rates** – Josh Metcalf and new representative Scott Gagner will be on hand to give a brief report regarding the solid waste franchise. They will also be presenting a rate increase, per agreement, of 2.1%. Please refer to Resolution 2017.05 for the details.
- D. **Central Linn Recreation Association Annual Report** – President George Frasier will be on hand to give Council the CLRA annual report. The contract with the CLRA will also be reviewed by Council. The agreement expired on January 31<sup>st</sup>, 2017. I have placed a copy of the proposed agreement in the agenda packet for your review. The City is interested in adding the recreational immunity concern to the language (Paragraph 8). The City recently did the exact same thing with the Chamber agreement. Adding language will hopefully make it helpful as changes come down the pike from case law and from the City’s insurance provider and CIS.





# City Administrator Report

- E. **City Website Review** – Every two years or so I review the website functionality and information with Council.

## 9) LEGISLATIVE:

- A. **Resolution 2017.05: Solid Waste Rates** – Annually, Council considers a rate increase for waste collection based on the Solid Waste Franchise agreement. The rationale is just like the utility rates, keep up with gradual increase instead of experiencing major jumps in service prices.

***What is Council being asked to do?***

Consider passage of this annual resolution if it seems reasonable.

- B. **Ordinance 765: Utility Billing Additions (Second Reading)** – **From 01.24.17:** Councilor Chambers and Councilor Neddeau met with Staff to discuss possible additions to the utility billing process. Enclosed is the initial draft language for Council consideration. Administrative Assistant Jannea Deaver will be in attendance for any technical billing questions. The City continually deals with about two dozen accounts that cause considerable extra work for Staff including Public Works. The City should not be penalized due to the delinquency of a customer. The language changes reflect better protections for the City and Staff. The language also makes clear certain procedures for Staff and the general public.

***What is Council being asked to do?***

Review and consider passage.

- C. **Ordinance 766: Public Safety (Second Reading)** – Mayor Ware asked for some language to be added. The ordinance has been modified to read as requested. **From 01.24.17:** Councilor Chambers and Councilor Neddeau met with Staff to discuss possible additions to the Brownsville Municipal Code which would provide public safety measures. Enclosed is the initial draft language for Council consideration. Recently the City and the general public has dealt with disorderly conduct, harassment and other problems not rightly addressed by the Brownsville Municipal Code. The proposed language will help law enforcement handle these situations more efficiently and effectively in the future.



***What is Council being asked to do?***

Review and consider passage.

- D. **Ordinance 767: Public Parking (First Reading)** – I sat down with Linn County Sheriff's Office Deputy Newman to review Ordinance 766. Deputy Newman was concerned about having the proper "tools" to adequately do his work. City Attorney Lauren Sommers added this language as part of Brownsville Municipal Code Chapter 10. I hope to have the ordinance to you prior to the meeting.

***What is Council being asked to do?***

Review and consider the language.



# City Administrator Report

## 10) ACTION ITEMS:

- A. **Central Linn Recreation Association Agreement** – Every three years the City reviews all agreements with community partners. It is time once again to review the CLRA agreement. It would be a good idea to add language about recreational immunity.

***What is Council being asked to do?***

Review the contract and consider passage.



- B. **Appoint Planning Commission Member** – Council will need to appoint a Planning Commission member to replace the vacancy left by Mr. Block.

- C. **Pay.gov** – The City has been researching the best option for accepting credit cards for City services. Council has historically been reluctant due to the 3% fee charged to the City. Pay.gov offers options that do not erode the City's revenue. Many customers have requested this service; offering this form of payment is long overdue.

***What is Council being asked to do?***

Authorize the Mayor and the City Administrator to execute the contract for this service.

- D. **Amanda Wright Proclamation** – Mayor Ware, at the request of Councilor Block, will be recognizing the efforts of Amanda Wright in Archer's recent house fire on Kirk Avenue. Please refer to the proclamation for more information.

## 11) DISCUSSION ITEMS:

- A. **Central Linn School Board & Blakely Gymnasium** ☒ – Central Linn School District Superintendent Brian Garner invited me to attend a Central Linn School Board work session on February 8<sup>th</sup>, 2017. I attended the meeting with Administrative Assistant Elizabeth Coleman and Administrative Assistant Tammi Morrow. I have included in the agenda from the meeting in the agenda packet. I have included the plan for the property and a cost estimate for the gym. If any Councilor is interested in any of the supporting information, I have it available in my office. I spoke about the Blakely Gymnasium. Basically, I indicated that Council had developed questions about the Blakely Gymnasium and how the partnership with the City and the District would work, but to date Council has not had any of those questions answered. I indicated that Council's position is that we want public hearings to happen before the Planning Commission meeting. Council does not want the Planning, Staff or the Council thrown "under the bus" due to the amount of concern in the neighborhood over the current plan. Recently, Samaritan reviewed the property for a possible project. Samaritan was not interested in developing the property due to financial constraints. Samaritan's building inspector recommended razing the gymnasium based on the current condition.



Blakely Gym - West Side

I shared with the Board that they need to include another \$30,000 - \$50,000 to the estimate to actually close off the building from the part that is planned for demolition, should they keep the gym. I continued saying the City of Brownsville has no need for the gymnasium. The Rec Center



# City Administrator Report

uses the space about two months out of the year. Council spending over \$20,000 to maintain a building for two months does not make good sense.

The best course of action would be to tear down the building so the property could be developed properly. The gym is in a horrible location to maximize the use of the property. The Board not the Council have \$300,000 laying around to fix the building. I explained some of Council's challenges moving forward with the Park and the current Rec Center and how they relate to a possible future bond. I then explained the complete history of the community garden. The Calapooia Food Alliance has always known that the property was on a year-to-year basis. The City is not interested in owning this property due to changes in recreational immunity and the possible impacts that will have for the City in general.

**From 09.27.2016:** Mayor Ware and Councilor Shepherd attended a meeting put together by Bryan Wyant on September 16<sup>th</sup>, 2016. Mr. Wyant had reached out to Samaritan to gauge their interest in the property. The Central Linn School Board approved Mr. Wyant contacting any other interested parties at their August Board meeting. Councilor Shepherd reported that no decisions were made at the meeting. Superintendent Gardner indicated that Willamette Neighborhood Housing Services has until the end of October to determine if they want to purchase the property for development. Shepherd indicated that Samaritan was simply looking at options. Mr. Wyant was encouraged that Samaritan demonstrated interest in the property by coming to Brownsville to look the property over.

**From 06.28.2016:** Council sent Mayor Ware to talk with Mr. Mark Penrod, Central Linn School Board Chair, in an attempt to get answers on the Board's plans for the Blakely Avenue property. Council also would like to see community conversations being held with the Central Linn School District about the plans for the property, otherwise the City Planning Commission could easily be placed in a difficult situation. Administrative Assistant Elizabeth Coleman attended the Central Linn School Board's meeting on June 13<sup>th</sup>, 2016.

**From 3.22.2016:** Superintendent Brian Gardner indicated that he is awaiting a proposal from Willamette Neighborhood Housing Services (WNHS) for the Blakely Avenue property. Mr. Gardner indicated that several contingencies are included in the language put forth by the Central Linn School Board. Once he has the information, he will discuss the details with the City.

- B. Solar Eclipse Meeting** ☒ – The State is expecting over 1,000,000 visitors for this solar event. The Country Music Festival was discussed at length. Concern over the loss of vision and other transportation issues were the focus of the discussion. I will talk about this in further detail at the meeting. I have put Anne Hankins in touch with Regional Solutions Jackie Mikalonis.
- C. 2015-2016 Goals Review** – Please refer to the Goals discussion included in the packet. I will be reviewing those briefly for preparation toward the goal setting session to be held on March 11<sup>th</sup>, 2017 at 8:00 a.m. here at City Hall.
- D. January Financials**



**NEW INFORMATION – Notable situations that have developed after the last Council meeting**



# City Administrator Report

- ▶ Filed the TMDL with DEQ.
- ▶ Attended a software presentation with Administrative Assistant Tammi Morrow and Administrative Assistant Jannea Deaver at the Cascade West Council of Governments.
- ▶ Met with the Chamber to discuss the shuttle contract for this upcoming Festival year.
- ▶ Met with CLSD Superintendent Brian Gardner to discuss Blakely Gymnasium and the potential of another CLSD bond.
- ▶ Fixed Tammi's computer.
- ▶ Bill Sattler signed his contract with the City to provide IT and Planning support as needed.
- ▶ Public Works Superintendent Karl Frink and I put out the RFP for the Library Roof project.
- ▶ Attended several meeting with the LCSO and the joint cities on the Law Enforcement contract concerns.
- ▶ Attended a Central Linn School Board work session with Administrative Assistant Tammi Morrow and Administrative Assistant Elizabeth Coleman.
- ▶ Reviewed the City's policy and survey with CIS's Dunny Sorenson.
- ▶ Discussed programming ideas for the Picnic with Mrs. Linda McCormick.
- ▶ Councilor Van Sandt picked up her resolution and pen set. She was very appreciative.
- ▶ Met with Dunny Sorenson and Dave Nelson to review security concerns for City Hall.
- ▶ Administrative Assistant Jannea Deaver and I met at the Cascade West Council of Governments with the Regional Solutions Team to discuss planning for the solar eclipse in August.
- ▶ Helped newly appointed Halsey City Administrator Hilary Norton with budgeting process questions.
- ▶ Administrative Assistant Elizabeth Coleman, Public Works Superintendent Karl Frink and I finished the Park Master Plan.
- ▶ Put the finishing touches on my Ransomware presentation for the Finance Officers Association conference which will be held in early March.
- ▶ Administrative Assistant Jannea Deaver and I attended a meeting with the Regional Solutions Team regarding the Solar Eclipse event happening August 21<sup>st</sup>, 2017.



## HAPPENINGS

**Linn County Sheriff's Office** ☒ – I will have an oral report about the meeting with contract cities at the meeting. Contract cities are scheduled to meet on February 7<sup>th</sup>, 2017. Meeting #2 with Sheriff Riley is happening while this report is being prepare for the packet. Mayor Ware and I will be attending.



Sheriff Riley

**Go Team Next Steps** ☒ – I will have an oral report.

**Active: Economic Development** ☒ – **From 12.20.2016:** Mayor Ware and I briefly outlined the highlights of the RLED presentation at the last meeting. I will have an oral update for Council which basically is the plan of the group moving forward.

**From 10.25.2016:** The summit/forum discussion is schedule for November 17<sup>th</sup>, 2016 at the Boulder Falls Conference Center in Lebanon, Oregon. The evening will begin at 5:30 p.m. and is planned to last until around 8:30 p.m. I still need to meet with the City of Scio and the City of



# City Administrator Report

Halsey on behalf of this effort. Mayor Ware and one of the other Councilors should attend on behalf of Brownsville as I will be a presenter.

**Telecommunications Franchise** – I have contacted City Attorney Ross Williamson to begin planning for the renegotiation of this important franchise. The current agreement is set to expire in September 2017.



CenturyLink

**Finance Officer's Annual Conference** – I will be presenting the details of the City's recent ransomware attack in Gleneden Beach on March 6<sup>th</sup>, 2017.

**Chair Outcome** – Staff is putting the finishing touches on a chair that will be practical for the space the Council desk provides. We hope to have these in place for the March Council meeting. None of the chairs from last meeting will be purchased. The vote was tied 3-3-3... ☺

**Volunteer Coordination Effort** ☒ – Steve Brenner has a great idea that I will expound upon at the meeting.

**OGEC Electronic Process Explanation** ☒ – I will explain this at the meeting in more detail. The State requires these forms to be done electronically.

## STATUS UPDATES – Projects, proposals and actions taken by Council

**Active: Emergency Preparedness Committee (EPC) Meeting Update** ☒ – I will have a report on the February 16<sup>th</sup>, 2017 meeting.

**Active: Total Maximum Daily Load (TMDL) Update** – The report has been filed with the State and is currently in que for review according to DEQ's Ms. Priscilla Woolverton.

**From 01.24.17:** Public Works Superintendent Karl Frink and I have finished our review of the TMDL Plan. We have also reviewed the information necessary to complete the annual report. Staff will bring the TMDL Plan to Council for approval. Staff has already filed the annual report.



**Active: Future Capital Improvements Planning** – **From 01.24.17:** Public Works Superintendent Karl Frink and I shared the presentation we gave to Council in October with the Parks & Open Space Advisory Board. The Parks & Open Space Advisory Board and Staff are currently updating the Park Master Plan.

**Active: Utility & General Ledger Software** ☒ – Staff will be meeting with the Cascade West Council of Governments to review the software and determine future viability. I will have a report for Council.

**From 11.22.2016:** The Cascade West Council of Governments is working on the possibility of purchasing software on behalf of cities in our region. Hopefully, there will be a more cost effective, shared solution.

**Linn County Project Advisory Committee (PAC)** – **From 12.20.2016:** Mayor Ware attended the last meeting in Halsey. I have included a priority list for Council approval. Don may have some additional commentary at Council meeting.





## City Administrator Report

**From 11.22.2016:** I was unable to attend the last meeting but I am reviewing the information for commentary and suggestions. This is will be imperative for Councilors to attend future public sessions if the City is interested in making sure Kirk Avenue gets on the County's priority list. Please see the information from Linn County Engineer Chuck Knoll that is included as part of the agenda packet.

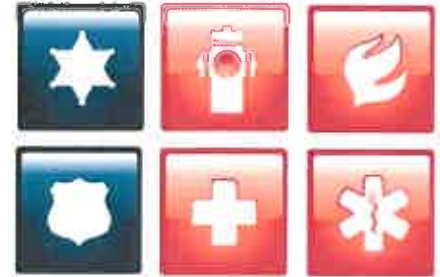
**BACKGROUND – From 01.26.2015:** Linn County Transportation System Plan (TSP) Project Advisory Committee (PAC) had the first meeting in a series of six total meetings over the next two years to discuss regional transportation issues and develop similar policies and land use practices. I think this will be an important piece in attempting to leverage County improvements on Kirk Avenue.

**Active: Medical & Recreational Marijuana Discussion** ☒ – I will have an oral update for Council.

**From 12.20.2016:** I have been very busy working with City Attorney Lauren Sommers to prepare the necessary changes to the Brownsville Municipal Code. All the needed and required changes are part of the legislative items for this meeting. Administrative Assistant Elizabeth Coleman and I are working with Randy & Gayle Simpson to assist them through the local process.

**From 11.22.2016:** If the results are certified based on the totals available at the time of this report, Council will need to change several pieces of legislation. Staff will prepare the necessary changes for the December Council meeting.

**From 09.27.2016:** Council passed necessary legislation at the July Council meeting to place the issue on the November ballot. Resolutions 2016.18 and 2016.19 were passed. Please refer to the last agenda packet for more information. Ordinance 762 was also reserved pending the outcome of the vote.



**Active: Recreational Vehicles** ☒ – Language in the new emergency ordinance could help with some of the shortcomings of the existing ordinance.

**From 12.20.2016:** Council may need to address this with additional policy. There are several throughout town that we are aware of and working on. I will discuss the concerns Staff has with the program as it currently exists and what realistic expectations are when dealing with owners.

**From 09.27.2016:** Council decided to not move forward with enforcing the right-of-way boundaries until a newsletter article went to the general public. Staff moved forward with the posting of three properties all of which have appealed the City Administrator's decision.

### ITEMS PENDING – Tabled or On Hold

**Pending: Canal Company Conversations** ☒ – The leadership of the Canal Company continue to explore their legal options.

**From 09.27.2016:** Council authorized the City Administrator to put together an agreement to be reviewed by the City Attorney at the last Council meeting. The City received the initial review from City Attorney Ross Williamson after Labor Day. Staff will give a brief update and revised timeline for future discussion...

**From 06.28.2016:** I will be hosting a conversation with the Canal Company Committee in July. The Committee consists of John Holbrook, Gary Shepherd, Mandy Cole, Kaye Fox and Nathan Mickelwright. The discussion will include how the City and the Canal Company may work together toward collection of dues, implementing certain requirements and executing maintenance of the canal.



## City Administrator Report

**From 05.24.2016:** The Canal Company met on May 9<sup>th</sup>, 2016 at 7:00 p.m. in Council Chambers. Mr. John Holbrook was re-elected as President. Mr. Gary Shepherd was re-elected as Vice-President and Ms. Cindy Clark was re-elected as Secretary/Treasurer. Mrs. Fox discussed the basic themes she shared with Council at the last meeting. I explained Council's position. The outcome of the conversation was that a committee of the Canal Company was formed to further investigate the concept that has been discussed for several years. The committee will be meeting initially in June. The Canal Company set a follow-up meeting to be held in September with everyone. The Canal Company went from an umbrella insurance policy of \$2 M to \$1 M due to costs.

**Stalled: Linn County Engineer Chuck Knoll & Washburn/Gap Road – From 11.22.2016:** Council asked Staff to request a speed study for Washburn Street due to a petition that was sent to Council by Mr. Joe Ervin. Mr. Knoll indicated that the only thing that will immediately help the situation is traffic patrol. I did indicate to Mr. Knoll that Council has been urging the Sheriff's Office to patrol this and other areas in town as we are continuing to experience a lot of citizen complaints regarding the lack of traffic enforcement. Mr. Knoll indicated that there are really no other 'traffic calming devices' that can be installed that would help this situation. Mr. Knoll asked if there were any pending improvements to the road by any private developments. I indicated that there were no plans pending or even presented to the City for this area. Mr. Knoll suggested that a turnabout could be installed if a large subdivision was being developed, as an example. Mr. Knoll indicated that he would discuss this issue further with Linn County Road Master Darrin Lane.

I feel that the City's only option on this matter is to continue to ask the Sheriff's Office for traffic patrol in this and other areas.

**Pending: Visit Linn Coalition (VLC) Update – From 07.26.2016:** The City recently contributed \$500 to assist in continuing the VLC mission.

### PAST MEETINGS – Memory Information

**Pending: Park Board & Public Works – From 09.27.2016:** Public Works Superintendent Karl Frink and crew will be removing the road west of the playground structure this Fall. Council and the Park Board passed a retreatment strategy to deal with the ever encroaching Calapooia River. Staff plans on creating a cul-de-sac by the dumpster north of the playground to accommodate traffic per the plan.

**Pending: Water Rights – From 09.27.2016:** The City is working with the Oregon Water Resources Department (OWRD) to prove use of the City's primary water right. An interest group known as WaterWatch of Oregon has brought lawsuits against the State of Oregon and municipalities to ensure that water is available for fish persistence. In 2013, one of those cases involving the City of Cottage Grove was appealed. The Supreme Court found in favor of WaterWatch of Oregon which could have major implications for the City's water rights. Staff is currently trying to prove the water being used for municipal purposes including future growth. It is unclear what the changes could mean, but the one outcome that seems most likely is that the water right may be limited to the water usage of 1999.

**Pending: Emergency Contractor Resolution Concept – From 06.23.15:** Attempting to organize an effort has proven to be too difficult. The City needs a larger community buy-in to really tackle the public education piece.

**From 11.25.2014:** Staff is planning to host a meeting to discuss this and other concepts with a group of individuals who are interested in helping the City work in this effort. Staff is dealing with false comments



## City Administrator Report

that came out regarding the Brownsville Rural Fire District. The City seeks only to work with community stakeholders and partners on these issues in the future. Cooperation is the hallmark of this effort.

**Pending: Darrin Lane & Kirk Avenue** – *From 10.25.2016:* I will provide some points to ponder at the upcoming meeting. The City will have an expenditure of between \$80,000 - \$160,000 if this project moves forward. Public Works Superintendent Karl Frink and I are unable to determine actual costs because we do not have a design for the road. Manholes, water and sewer service lines and hydrants along with other infrastructure will have to be relocated for the road to be reconstructed. The other major consideration is that of right-of-way acquisition. Many will have to give up portions of the area they are currently accustomed to as front yard.

When the road is reconstructed, Kirk Avenue will become a “drag strip” and complaining about speeding will be at an all-time high. I have seen this many times before in communities.

Linn County is under no obligation to fix this road. The County projected their cost to be over \$2 M to repair the road from Main Street to Hunter Street.

The City can either wait and attempt to ensure that Kirk Avenue is placed on the maintenance list or pass a bond measure for the repair of the street. The City does not have the money to take on such a project.

**For the history of the Kirk Avenue project, please refer to the *City Administrator Report* found in Council records from April 2016 and prior.**

The Budget Committee and Council have discussed the financial implications to the City. I have discussed the need for a Local Improvement District (LID) if this project should move forward. Depending on the design of the street improvements, the City could be spending hundreds of thousands of dollars on storm water drainage improvements, moving water line connections, moving sewer line connections, adjusting manholes and other utility appurtenances. Linn County has been doing major improvements throughout the County which have depleted their financial capability to assume Kirk Avenue as part of their roadway system.

**Coleman & Kinney – FEMA Implications** – Pending.

*From 09.27.2016:* Here is the quick paragraph that will appear in the newsletter: Flood regulations are soon to be changing. The National Marine Fisheries Service (NMFS) found that the Federal Emergency Management Agency (FEMA) have been carrying out practices and policies have proven to be detrimental to endangered species. FEMA is scrambling to correct these findings. Flood premiums will be on the rise as will the regulations required to do construction anywhere in the floodplain. The National Flood Insurance Program (NFIP) is making changes to more adequately cover the losses incurred when flooding occurs around the United States which is why premiums are set to increase 25% over the next five to seven years.

**Moody Court & Unenumerated Nuisance** – The cat numbers remain low.

*From 11.25.2014:* The City has paid out \$2,875 to have cats removed from the neighborhood...

**Stalled: Garbage Language** – *From past meetings:* Trash is starting to become a problem around town again. Below is the City of Albany's language that may be useful:



# City Administrator Report

**18.30.260 Accumulation of rubbish or garbage.**

All exterior property and premises, and the interior of every structure, should be free from any accumulation of rubbish or garbage so as not to harbor insects and rodents, produce dangerous or offensive gases, odors and bacteria, or other unsanitary conditions, or create a fire hazard. (Ord. 5647 § 1 (Exh. C), 2006).

**18.30.265 Disposal of rubbish.**

Every occupant of a structure should dispose of all rubbish or garbage in a clean and sanitary manner by placing such rubbish or garbage in containers which are free from holes and covered with tight-fitting lids. (Ord. 5647 § 1 (Exh. C), 2006).

The City would also need to consider a time frame that is appropriate and a procedure to abate quickly. If this sounds better, Staff can proceed with further research.

**WNHS Update** – Please refer citizens to the following websites for more information:

<http://www.oregonhomeownersupport.gov> & <http://w-nhs.org>

WNHS provides many home rehabilitation services and counseling for those meeting certain program requirements.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "SM".

S. Scott McDowell



## Public Works Report February 22, 2017

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 February.
- *Distribution System* – One leak and one broken water meter this month. Public Works will soon be replacing the water line on Howe Street. The current line is an old steel 1 inch line serving two customers; the new line will be a two inch PVC line, which will balance the pressure for the two services much better.
- *Cross Connection Program*- One backflow device is pending installation.
- *Water Treatment Plant* –All of the instrumentation has been cleaned and calibrated to factory specifications. The heavy rains have caused some fluctuations in pH, turbidity and chlorine residual levels, all have remained within safe drinking water specifications.
- *Misc.* – Nothing further to report this month.

### Sewer:

- *North Lagoons* – Discharge from this facility resumed February 13<sup>th</sup>. The recent heavy rains have quickly filled the lagoons, triggering the need to discharge once again.
- *South Lagoons*- Discharge from this facility began February 21<sup>st</sup>. Again, the recent heavy rains filled the lagoons very quickly, thus triggering the need to discharge from this facility.
- *Collection System*- Nothing to report this month.
- *Misc.* – Our wastewater facilities are due for inspection by DEQ. DEQ has arranged several site visits but has not been able to make any of the appointments. We are waiting to hear back from DEQ to complete this inspection. Our NPDES permit is in the process of being renewed, which requires additional sampling to be done to determine if any additional treatment processes need to be enacted, or if additional monitoring of different constituents needs to be done. We won't know any definitive answers until the current sampling is complete. The constituents we are currently monitoring for the NPDES are Ammonia, Dissolved Oxygen, Total Kjeldahl Nitrogen, Nitrate plus Nitrite Nitrogen, Oil and Grease, Phosphorus, Total Dissolved Solids and Alkalinity.

### Streets:

- *Mowing/Tree Maintenance* – Many tree branches and debris have been picked up following all of the adverse weather conditions.
- *Asphalt/ Gravel Road Maintenance* –All of the street painting and marking is scheduled to be repainted soon. This work includes City Hall and downtown parking lots. Public works will grade all gravel roads in the month of March.
- *Storm Drainage* – All catch basins will be scheduled to be cleaned in March.
- *Misc.* – Street sign work continues as time allows. Many new locations require locates to be called in before we can bore holes to place sign posts.

### Parks:

- *Pioneer Park* –Leaf clean up is under way. Currently the park is about half done. Work will continue until this project is complete.
- *Blakely Park* – Leaf clean up is complete.
- *Kirk's Ferry Park* – Leaf clean up is complete.
- *Remington Park* –Public works will be grinding out the stumps soon. Leaf clean up is complete.

**Cemetery:**

- *Grounds* –Several burial plots and headstone placements have been marked out. All of the fallen branches and debris have been cleaned up around the cemetery.

**Library:**

- *Grounds*- Leaf clean up is complete.
- *Buildings*- A few minor building maintenance items have been repaired. We are currently out for bid for a new roof on the Library until March 10. We will review all bids and award the roofing contract accordingly.

**Downtown**

- *Restrooms* – This facility is cleaned every Friday, or more often needed. The old bike rack in the flower bed was removed and will be delivered to Advanced Mechanical for overhaul. The plan is to place this bike rack in Pioneer Park once complete.
- *Garbage cans* – Down town garbage cans are emptied every Friday, or more frequently as noticed.
- *Parking Lot* – The parking lot will be restriped when the streets are repainted.
- *Misc.* – Renovation of the Red Shed is near complete, we are waiting for favorable weather conditions to caulk and paint the building.

**City Hall:**

- *Buildings*- Nothing to report this month.
- *Grounds* –The grass is mowed and maintained weekly, or as needed.
- *Community Center*- A bathroom door lock was broken and has been repaired.

**Rec. Center:**

- *Grounds*- Leaf clean up is complete.
- *Buildings*- Several lights have been repaired or replaced as needed.

**Public Works:**

- *Grounds*- Leaf clean up is complete.
- *Buildings*- Cleaning and organizing continues as time allows.
- *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.





## **PLANNING AT A GLANCE**

### **Permits Building, Plumbing, Mechanical, Fence, Etc.**

- Mechanical – Replace Gas Furnace No New Piping 528 Calapooia Avenue
- Mechanical – Replace Gas Furnace No New Piping 504 Washburn Street
- Mechanical – Install Ductless Heat Pump w/Air H 924 Ash Street
- Sign Permit – 432 Moyer Street

### **Land Use Applications**

None at this time

### **Updates**

### **Conditional Use Hearings**

The Planning Commission met on January 23<sup>rd</sup> for two Conditional Use Permit hearings. Randy & Gayle Simpson submitted their application to operate a Medical Marijuana Facility in the Volume Commercial Zone, at 221 West Bishop Way. The Planning Commission reviewed and discussed the Conditional Use Permit application criteria used to determine their decision to approve or deny the application. The Commission found the application complied with the criteria and approved the permit, subject to Conditions of Approval and a change of language to the Brownsville Business Registration, removing the portion which disallows any business within the City limits of Brownsville to operate if considered illegal by the Local, State, Federal, or County government. The Notice of Decision was sent to Mr. Simpson & Ms. Ashford within the five day time period allotted. No appeals were filed as of February 10<sup>th</sup>, 2017.

Terri Davis also came before the Planning Commission to request permission to operate a western boutique at her residence of 432 Moyer Street, as a Home Occupation in the Medium Residential Zone. After reviewing and discussing the criteria for this application, the Commission approved the permit, subject to Conditions of Approval. The Notice of Decision was sent to Mrs. Davis within the five day time period allotted. No appeals were filed as of February 10<sup>th</sup>, 2017.

### **New Construction Update**

The new single family dwelling on 601 Calapooia Avenue is moving right along, despite the rainy season. Setbacks have been verified, Public Works is ready to install the water meter, and the sewer lines are in process.

### **Planning Commissioner Training**

City Administrator Scott McDowell, Planning Consultant Dave Kinney, and myself will provide a Planning Commissioner training next month. The City of Halsey will also join us for the training. A portion of the training will take the Commissioners through the quasi-judicial process and procedures, along with the responsibilities of that role, public interaction, ex parte contacts, conflicts of interest, bias, etc.

Elizabeth Coleman



# LINN COUNTY SHERIFF'S OFFICE

**Bruce W. Riley, Sheriff**  
1115 S.E. Jackson Street  
Albany, OR 97322  
Phone: 541-967-3950  
www.linnsheriff.org

## 2017

### MONTHLY REPORT TO THE CITY OF BROWNSVILLE FROM THE LINN COUNTY SHERIFF'S OFFICE

**FOR THE MONTH OF:** **January**

<b>TRAFFIC CITATIONS:</b> -----	<b>6</b>
<b>TRAFFIC WARNINGS:</b> -----	<b>9</b>
<b>TRAFFIC CRASHES:</b> -----	<b>2</b>
<b>ADULTS CITED / VIOLATIONS:</b> -----	<b>0</b>
<b>ADULTS ARRESTED:</b> -----	<b>11</b>
<b>JUVENILES CITED / VIOLATIONS:</b> -----	<b>0</b>
<b>JUVENILES ARRESTED:</b> -----	<b>0</b>
<b>COMPLAINTS/INCIDENTS INVESTIGATED:</b> -----	<b>60</b>
<b>TRAFFIC HOURS</b> -----	<b>30</b>

**TOTAL HOURS SPENT IN:                    BROWNSVILLE                    231**

**CONTRACT HOURS= 202 HOURS**

**Bruce W. Riley,  
Sheriff, Linn County**

**By: Sergeant Greg Klein**



## PATRL\_RPT#2 City Incident Report

ENTRY DATE	ENTRY CALL TIME DESCRIPTION	ADDRESS	CITY	DESCRIPTION
1/29/17	16:29:56 EXTRA PATROL	KISLING AV	Brownsville	NARN Extra Patrol
1/27/17	12:41:13 DOG COMPLAINT	LINN WY	Brownsville	No Additional Report Necessary
1/26/17	17:52:52 ASSAULT REPORT	KIRK AV	Brownsville	No Additional Report Necessary
1/24/17	15:14:01 NEGLECT	KAY AV	Brownsville	No Additional Report Necessary
1/24/17	13:01:57 CRIM MISCHIEF	LOUCKS WY	Brownsville	Incident Report
1/24/17	11:31:11 NEGLECT	EMPLETON ST	Brownsville	No Additional Report Necessary
1/24/17	6:23:52 SUSP-PERSON	N MAIN ST	Brownsville	No Additional Report Necessary
1/23/17	16:51:09 NEGLECT	TEMPLETON ST	Brownsville	No Additional Report Necessary
1/23/17	7:11:02 ASST-OUTSIDE AGENCY	WASHBURN ST	Brownsville	No Additional Report Necessary
1/22/17	20:56:56 CRIM MISCHIEF	KIRK AV	Brownsville	Incident Report
1/22/17	11:26:18 Trf Cell Phone Use	W HWY 228	Brownsville	CITE ISSUED - CELL PHONE USE VIOL
1/21/17	20:32:43 Trf Moving Viol	S MAIN ST	Brownsville	WARNING - MOVING VIOLATION
1/21/17	17:50:19 DISTB-OTHER	MILLHOUSE ST	Brownsville	Incident Report
1/21/17	17:32:14 WELF CHECK	SPAULDING WY	Brownsville	No Additional Report Necessary
1/21/17	9:32:43 Trf Cell Phone Use	S MAIN ST	Brownsville	CITE ISSUED - CELL PHONE USE VIOL
1/21/17	0:37:29 SUSP-CIRCUMSTANCES	KIRK AV	Brownsville	No Additional Report Necessary
1/20/17	21:07:11 Trf Equipment Viol	SPAULDING AV	Brownsville	CITE ISSUED - EQUIPMENT VIOLATION
1/20/17	21:07:11 Trf Equipment Viol	SPAULDING AV	Brownsville	CITE ISSUED - NO INSURANCE
1/20/17	21:07:11 Trf Equipment Viol	SPAULDING AV	Brownsville	CITE ISSUED - DWS/NO ODL
1/20/17	19:08:45 Trf Equipment Viol	SCHOOL AV	Brownsville	WARNING - EQUIPMENT VIOLATION
1/20/17	10:21:08 Trf Equipment Viol	N MAIN ST	Brownsville	WARNING - EQUIPMENT VIOLATION
1/19/17	9:33:17 WARRANT SERV	W BISHOP WY	Brownsville	No Additional Report Necessary
1/19/17	8:03:57 ALARM - POLICE	N MAIN ST	Brownsville	No Additional Report Necessary
1/18/17	17:26:36 Trf Moving Viol	S MAIN ST	Brownsville	CITE ISSUED - MOVING VIOLATION
1/18/17	16:26:02 Trf Speed Viol	PARK AV	Brownsville	WARNING - SPEEDING VIOLATION
1/18/17	16:26:02 Trf Speed Viol	PARK AV	Brownsville	WARNING - EQUIPMENT VIOLATION
1/18/17	16:11:27 WARRANT SERV	ASH ST	Brownsville	Contact Attempted/No Contact Made

## PATRL\_RPT#2 City Incident Report

1/18/17	8:36:40	AT SUB STATION	N MAIN ST	Brownsville	Call completed
1/18/17	1:17:50	SUSP- CIRCUMSTANCES	E BLAKELY AV	Brownsville	No Additional Report Necessary
1/17/17	18:30:25	MVC-HIT & RUN	E BISHOP WY	Brownsville	Incident Report
1/17/17	17:24:47	CIV PROCESS- OTHER	WILLSON AV	Brownsville	Civil process, service completed
1/16/17	21:08:16	MENTAL-OTHER	KIRK AV	Brownsville	No Additional Report Necessary
1/16/17	13:23:03	DISTB-OTHER	KIRK AV	Brownsville	No Additional Report Necessary
1/16/17	12:21:07	Trf Cell Phone Use	WASHBURN ST	Brownsville	CITE ISSUED - CELL PHONE USE VIOL
1/14/17	17:55:07	FIRE ARMS COMPL	GALBRAITH ST	Brownsville	No Additional Report Necessary
1/13/17	12:34:05	ASST-OUTSIDE AGENCY	AVERILL ST	Brownsville	No Additional Report Necessary
1/13/17	11:41:38	JUV-RUNAWAY RPT	KIRK AV	Brownsville	Incident Report
1/13/17	8:28:43	JUV-COMPLAINT	KIRK AV	Brownsville	No Additional Report Necessary
1/12/17	15:36:07	WARRANT SERV	E HWY 228	Brownsville	No Additional Report Necessary
1/11/17	21:26:57	SUSP-VEHICLE	WASHBURN ST	Brownsville	No Additional Report Necessary
1/11/17	18:21:36	NEGLECT	AVERILL ST	Brownsville	No Additional Report Necessary
1/11/17	14:36:24	PHONE- HARASSMENT	LOUCKS WY	Brownsville	No Additional Report Necessary
1/11/17	12:29:46	CRIM MISCHIEF	KIRK AV	Brownsville	No Additional Report Necessary
1/10/17	12:27:52	WELF CHECK	LINN WY	Brownsville	No Additional Report Necessary
1/09/17	13:38:56	DOG COMPLAINT	ROBE ST	Brownsville	No Additional Report Necessary
1/09/17	13:21:13	SUICIDAL- SUBJECT	SPAULDING AV	Brownsville	CAD Report
1/09/17	8:00:27	ANIMAL - HORSE	S MAIN ST	Brownsville	No Additional Report Necessary
1/09/17	0:41:45	ASST-OUTSIDE AGENCY	KIRK AV	Brownsville	Incident Report
1/07/17	16:06:55	Trf Moving Viol	ELM ST	Brownsville	WARNING - MOVING VIOLATION
1/06/17	23:38:32	Trf D U I I	WASHBURN ST	Brownsville	Incident Report
1/06/17	21:08:52	DISTB-OTHER	E BISHOP WY	Brownsville	No Additional Report Necessary
1/06/17	14:58:32	WELF CHECK	W BISHOP WY	Brownsville	No Additional Report Necessary
1/06/17	14:28:12	NEGLECT	WILLSON AV	Brownsville	No Additional Report Necessary
1/06/17	8:56:31	WARRANT SERV	TEMPLETON ST	Brownsville	No Additional Report Necessary

## PATRL\_RPT#2 City Incident Report

1/06/17	7:35:28	ASST-MOTORIST	S MAIN ST	Brownsville	No Additional Report Necessary
1/06/17	1:28:08	SUSP-VEHICLE	E BLAKELY AV	Brownsville	No Additional Report Necessary
1/05/17	17:17:23	DOG COMPLAINT	FILBERT CT	Brownsville	No Additional Report Necessary
1/04/17	12:52:09	PROP-FOUND	OAK ST	Brownsville	Incident Report
1/04/17	10:43:07	DISTB-OTHER	N MAIN ST	Brownsville	No Additional Report Necessary
1/04/17	0:00:54	WARRANT SERV	OAK ST	Brownsville	No Additional Report Necessary
1/03/17	23:10:24	NARCOTICS OFF	OAK ST	Brownsville	No Additional Report Necessary
1/03/17	22:57:13	NARCOTICS OFF	OAK ST	Brownsville	Incident Report
1/03/17	7:32:47	HAZ-TRAFFIC	MOYER ST	Brownsville	No Additional Report Necessary
1/02/17	15:11:03	WARRANT SERV	AVERILL ST	Brownsville	No Additional Report Necessary
1/02/17	5:15:41	ALARM - POLICE	HUME ST	Brownsville	No Additional Report Necessary
1/01/17	13:52:58	ASST-PERSON	NORTHPOINT LOOP	Brownsville	No Additional Report Necessary
1/01/17	3:35:27	SUSP-VEHICLE	N MAIN ST	Brownsville	No Additional Report Necessary
1/01/17	3:06:14	SUSP-PERSON	SPAULDING AV	Brownsville	No Additional Report Necessary
1/01/17	3:02:07	EXTRA PATROL	WASHBURN ST	Brownsville	No Additional Report Necessary
1/01/17	0:56:54	WARRANT SERV	LOUCKS WY	Brownsville	No Additional Report Necessary
1/01/17	0:30:46	Trf Moving Viol	LOUCKS WY	Brownsville	Incident Report
1/01/17	0:09:52	BAR CHECK	N MAIN ST	Brownsville	No Additional Report Necessary
1/01/17	0:04:26	FIREWORKS COMPL	GALBRAITH ST	Brownsville	No Additional Report Necessary

**BROWNSVILLE MUNICIPAL COURT MONTHLY REPORT  
STATISTICAL REPORT FOR JANUARY 2017**

Offense Class	Pending First Day	Filed	Closed	Pending Last Day	Trials
Misdemeanors	33	3	1	35	
Violations	13	13	7	19	
Contempt/Other	31	3	2	32	
<b>TOTALS</b>	<b>77</b>	<b>19</b>	<b>10</b>	<b>86</b>	

**BALANCE SHEET FOR THE MONTH**

**Court Revenue**

**Court Payments**

Total Deposits +	\$ 1,455.00	City	\$ 1,226.60
Total Bail Forfeits +		Restitution	\$ -
Total Bail/Bank Fees -	\$ -	Oregon Dept Revenue	\$ 170.40
Total Bail Held -	\$ (10.00)	Linn County	\$ 48.00
* Total Refund/Rest -	\$ -	State Misc.	\$ -
Total NSF's -	\$ -	DUII Surcharge	\$ -

<b>TOTAL COURT REVENUE</b>	<b><u>\$ 1,445.00</u></b>	<b>TOTAL COURT PAYMENTS</b>	<b><u>\$ 1,445.00</u></b>
----------------------------	---------------------------	-----------------------------	---------------------------

Credit given for Community Service \$ -

Other Credit Allowed Against Fines \$ -

**TOTAL NON-REVENUE CREDIT ALLOWED** \$ -

**TOTAL CASH PAYMENTS TO:**

CITY	\$ 1,226.60
STATE	\$ 170.40
COUNTY	\$ 48.00
*REFUND/RESTITUTION	\$ -
<b>TOTAL:</b>	<b><u>\$ 1,445.00</u></b>



## Library Advisory Board

*Librarian's Report*

January 2017

Here are a few facts about our library the month of January 2017. We have received 46 new books for the library. Volunteers donated 158.5 hours to our library. There were 1,363 materials checked out. 430 adult fiction books; 186 adult non-fiction books; 86 audio books; 288 children's books; 279 junior books; 18 junior reference books and 76 large print books.

This past month I feel I have fielded one computer issue after another. With the assistance and support of Mr. McDowell, the Library wi-fi has been upgraded. The computers that need to run on of Ethernet cables are and all is well. One of our three public computer has totally failed and I have had to move a computer over to the workstation to keep our two slots open and functioning. I believe the fans in both remaining public computers are failing. This could cause the computer to shut off without warning. Luckily these are not stations that need gaming style computers. This is another term for very expensive. I am in negotiation with local company for new public computers. Follett circulation software has been updated. There was an error in this update too, which in turn used three hours of my time to correct. I am crossing my fingers that I will not have seven weeks of intensive learning about how to fix broken internet, computers and the like.

The Summer Reading Program Team has their first meeting scheduled. We will have four programs in July. These will be each Friday from 11 – Noon for children birth to age 14. I purchase books all year to keep our young readers engaged in the summer and all year long.

On Monday, August 21 beginning around 9 am we will be in a great position to see the first full solar eclipse in our area since 1930. The Library will partnership with the Brownsville Women Study Club and the Friends of the Library in hosting a special event in the Library Park. 500 Solar Viewers have been purchased to give away. Also for use in promotion are 25 children's Activity Books and 3 Solar Eclipse books. Stay tuned for more information!

Respectfully submitted,

A handwritten signature in blue ink that reads "Sherri Lemhouse".

Sherri Lemhouse  
Librarian



## 2015-2016 Council Values

**Note:** I have divided Council Values and Council Goals for the sake of convenience for the agenda packet.

### **Council Vision Statement**

The Brownsville City Council works collaboratively and effectively with each other, staff, and community partners to preserve the historic character and economic health of our town and to create a high quality of life for our citizens.

### **A Vision for Brownsville**

For a tiny rural Oregon community, Brownsville has a huge presence. It is well-known throughout the state for its friendly welcome and for being a safe, clean, and attractive town. It is clear that residents value its historic character and make special efforts to preserve and enhance it. Talk to business owners in the thriving north and south business areas and you will find that it is the creative working relationships between city government and private, county, state, and federal partners that sustain our economic health and well-being. Residents participate in Brownsville's inclusive process of growing and enhancing our high quality of life. Brownsvillians care about healthy city finances, they expect infrastructure that delivers, and they elect a City Council that works for the benefit of the community. Public spaces are a vital part of Brownsville's sense of place; citizens' and city government's attention to the appearance and cleanliness of parks, streets, and neighborhoods adds to the town's livability.

### **Tag line**

***Brownsville:*** Where People Care, Business Thrives, and History Lives

### ***Who we are?***

Brownsville is a City that is proud of its past while constantly improving toward the future for the benefit of our citizens. We are a group of citizens that honor each other by carefully balancing the social contract (Brownsville Municipal Code) to keep peace and order. The Brownsville Municipal Code and Comprehensive Plan help define the role of the City. Organizational transparency is a focus of Council. Council is working closely with Staff, volunteers, civic organizations, appointed officials and the citizenry to execute identified goals and carry out the responsibilities of the City.

Brownsville has a tremendous sense of place and synergy between City Hall and our residents. Active citizens are the true strength of Brownsville as evidenced by the volunteers who give freely of themselves to provide many municipal functions and civic services. Many civic organizations implement their missions actively in our community which provides a quality of life and vibrancy that is uncommon. Community events are planned and designed to invite people into town to share what Brownsville has to offer.

Council recognizes that many civic organizations and the City government are working diligently on implementing organizational development concepts in order to more efficiently provide services. Council recognizes that we are in a transition period between an authoritative model and are collectively moving toward a new, participatory approach within the organization and throughout the community.



## 2015-2016 Council Values

### ***What do we want for Brownsville?***

Brownsville should honor the past, maintain a healthy present and strive to assure a dynamic future by focusing on fundamental municipal services such as:

- |                         |                            |
|-------------------------|----------------------------|
| 1. Treasury Health      | 7. Contract Administration |
| 2. Water                | 8. Personnel               |
| 3. Sewer                | 9. Police Protection       |
| 4. Capital Improvements | 10. Municipal Court        |
| 5. Parks                | 11. Library Services       |
| 6. Streets              | 12. Planning & Zoning      |

### **Organizational Development**

1. ***Elected & Appointed Officials.*** People who understand their role and responsibilities for the City as policy & decision makers. People who have a tremendous amount of pride and caring about the future of Brownsville. People who understand the financial nuances of local government in Oregon. People who understand and respect the significant contributions of Staff. People who are focused on the greater good they can collectively make in the community. People who understand the mission of the City and who can explain City policy and issues with the general public. People who represent Brownsville citizenry as well as City Staff.
2. ***Staff.*** People who understand their multiple roles and responsibilities. People who love coming to work. People who are interested in creating the best possible work environment that is full of respect and compassion for the citizens and is honest and trusting among all the ranks of the organization. People who don't complain about what they cannot control but people who are interested in creating practical, cost-effective solutions for those issues they can control. People who expect more than the ordinary from themselves and from each other.
3. ***Organizational Axiom.*** Creating, developing and maintaining effective relationships with individuals, other civic organizations, County, State & Federal government personnel. Understanding that the number one priority of the City is relationship building. The City shall honor relationships and the ordinances and laws of the land. The City shall be ever mindful of the importance of the social contract of government and the order that it strives to preserve for the sake of freedom.

**NOTES:** Council has discussed many organizational theories & objectives as well as identifying important critical thinking models that will serve as a guide for making better decisions. Below are a few of those models:

### **THE PROCESS OF PROGRESS**

1. Recognize/Identify
2. Accept/Agree
3. Strategize/Develop Action Steps
4. Implement/Execute
5. Review Outcomes



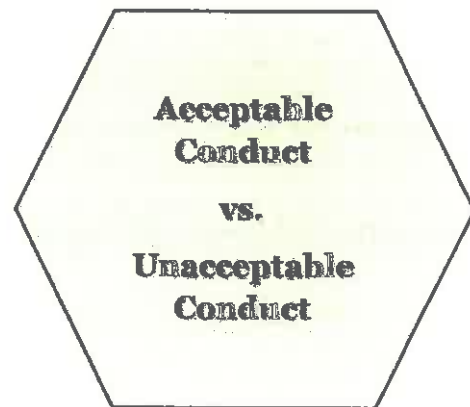
## 2015-2016 Council Values

### LEXIPOL'S 10 FAMILIES OF RISK MODEL

1. External Risks
2. Legal & Regulatory Risks
3. Strategic Risks
4. Organizational Risks
5. Operational Risks
6. Information Risks
7. Human Resources Risks
8. Technology Risks
9. Financial and Administrative Risks
10. Political Risks

### *How are expectations set in City Government?*

- ✦ Laws & Municipal Code
- ✦ Standards
- ✦ Requirements & Rules
- ✦ Memoranda of Understanding
- ✦ Contracts
- ✦ Agreements
- ✦ Employee Handbook
- ✦ Societal Norms
- ✦ Cultural Nuances
- ✦ Public Opinion







## 2015-2016 Council Goals

### Goals 2015-2016

1. Focus on the Fundamentals.
  - *Protect Brownsville's Treasury.*
  - *Active Capital Improvements Plan Implementation.*
  - *Foster Cooperative & Productive Relationships in the community and with County, State & Federal Agencies.*
2. Water Rights.
  - *Explore Possible Water Source Options.*
  - *Continually work on perfecting Water Rights.*
3. Economic Development Plan.
  - *Discuss Land Options with McFarland Cascade.*
  - *Participate in Regional Efforts & Opportunities.*
  - *Support Youth Activities in Cooperation with CLRA.*
4. Community Development Plan.
  - *Refine Zoning Rules & Requirements.*
  - *Consider & Adopt New Policies & Standards.*
  - *Finish & Implement a Sidewalk Program.*
  - *Improve Partnerships with CLSD.*
5. Capital Improvements Plan.
  - *Execute 2015 Water Improvements Project Contracts.*
  - *Plan & Construct Downtown Wastewater & Stormwater Improvements.*
  - *Estimate City portion of Kirk Avenue Improvements.*
6. Organizational Development.
  - *Implement Accountability System for all Officials.*
  - *Focus on Council Development.*
7. Emergency Preparedness Plan.
  - *Compose a Written Emergency Plan.*
  - *Work with Area Partners on a continual Community Education Program.*
  - *Develop Agreements with Community Partners.*

### GOALS PROGRESS UPDATE

#### 1. Focus on the Fundamentals.

- *Protect Brownsville's Treasury.*
- *Active Capital Improvements Plan Implementation.*
- *Foster Cooperative & Productive Relationships in the community and with County, State & Federal Agencies.*



## 2015-2016 Council Goals

**Plan:** Staff will continue to strictly adhere to the annually adopted budget working within the necessary parameters to keep rates as low as possible while providing vital services effectively. Staff will execute the planned projects found in the FY 2015-2016 budget as time and priority allow.

Staff will bid, construct and complete the 2015 Waterline Project. Staff will plan for and execute the engineering for the redevelopment of sewer lines in Old Town Commercial for the next fiscal year.

Staff will continue to strive for excellence in all relational aspects of service delivery. McDowell serves on the State's OPRD Grant Advisory Committee, the Visit Linn Coalition, the Ford Foundation's Go Team Effort and works with CIS and the LOC as needed. Frink works with various groups including 811.

**2016 November Final Update:** City Administrator Scott McDowell has been very busy working with the Go Team preparing for the summit/forum happening on November 17<sup>th</sup>, 2016. The proposal is a regional economic development effort being completed in conjunction with the Ford Family Foundation and a serious local, grass roots effort.

The City was allowed by the United States Department of Agriculture – Rural Development (USDA-RD) to investigate the possibility of refinancing the City's debt with USDA-RD. The feds decided to allow cities to review refunding bonds due to the all-time low interest rates that were available. The City had not been allowed to refinance any debt until May of 2016. USDA-RD's policy did not allow cities the size of Brownsville to refinance without unfavorable future consequences. The City was told that it would be seen as a "self-funding agency" which meant that we would not be eligible for future funding through USDA-RD. Due to the policy change in 2016, the City was able to investigate possibilities. The final outcome was an interest rate of 2.9% with a savings of \$2M over the next thirty (30) years. The City received an A+ rating from Standard & Poor's Rating Agency.

The FY 2016-2017 Budget did not include a major capital improvement due to past spending. The City has completed over \$3.3M in capital improvement projects over the last ten years. All projects have been self-funded due to strict adherence with budget planning goals. The City still has a substantial backlog of capital improvements to complete, but adequate funding must be available. The Budget Committee and the Council hope to include funds for another major sewer collections overhaul in FY 2017-2018.

**June 2016 Update:** The 2015 Water System Improvements Project came in on budget but a little over time due to an issue with the GR 12 pump. Public Works Superintendent Karl Frink did an outstanding job providing inspection services for this important project.

Staff is executing at a very high level. Projects are executed with precision. Many members of the Staff participated in new ways to learn new skills and build overall capacity for the City.

Council does a great job navigating through tough decisions to honor the wishes of the Budget Committee and to honor the taxpayers while getting a lot of projects accomplished.

Staff continues to work on regional economic development plans with other municipalities as well as Linn County.



## 2015-2016 Council Goals

The Willamette Country Music Festival (WCMF) had a banner year and the cooperation with Linn County was nearly flawless.

### 2. Water Rights.

- *Explore Possible Water Source Options.*
- *Continually work on perfecting Water Rights.*

**Plan:** Currently working on the redevelopment of the GR12 well site east of the Main Street Bridge. Council has determined that this water source would double the current water capacity for the City. The City will continue exploring additional resources such as procurement of upstream water rights and other possibilities that exist in other areas of Brownsville.

**2016 November Final Update:** Water Rights Attorney Wyatt Rolfe, Public Works Superintendent Karl Frink, City Engineer Jon Erwin and City Administrator Scott McDowell have been working with the League of Oregon Cities on defending the City's water rights from future curtailment. The Oregon Supreme Court case involving the City of Cottage Grove was finalized and the implications are still not clear. Oregon Water Resources Department (OWRD) is acutely aware that any policy changes could potentially have major impacts on cities. The City has demonstrated with water usage data the City's position on this matter. The City would not have any room for future growth if the State curtails the water as proposed by the interest group suing the State of Oregon. Staff will continue to monitor this situation closely as it is vital to the future of the City. The League of Oregon Cities reports that these discussions will more than likely continue through the next State Legislative Session.

**June 2016 Update:** City Engineer Jon Erwin and Staff continue to work on this important process. The completion of GR 12 aides greatly in this process. The City is in the process of exploring other water resource options.

### 3. Economic Development Plan.

- *Discuss Land Options with McFarland Cascade.*
- *Participate in Regional Efforts & Opportunities.*
- *Support Youth Activities in Cooperation with CLRA.*

**Plan:** Continue working with East Linn communities and the Ford Foundation. The Go Team proposal is gaining public exposure. Continue working with the Brownsville Chamber of Commerce, Visit Linn Coalition and the Bi-Mart Willamette Country Music Festival to drive local financial viability of businesses. McFarland Cascade is currently using their entire property and looking to possibly add more. The land that has been thought of as a possible 'industrial park' has recently been purchased for the purpose of growing grapes. The new owner has the entire property planted.

Council needs to determine the next course of action as it relates to the CLRA organizational development agreement. Continue to work with the CLRA to develop and strengthen youth activities as a vital community amenity.

**Definition:** The two chief focuses of Economic Development are 1) retaining existing business and 2) attracting new business.



## 2015-2016 Council Goals

**2016 November Final Update:** City Administrator Scott McDowell has been very busy working with the Go Team preparing for the summit/forum happening on November 17<sup>th</sup>, 2016. The proposal is a regional economic development effort being completed in conjunction with the Ford Family Foundation and a serious local, grass roots effort.

Mayor Ware & City Administrator Scott McDowell have engaged in conversations with the Cascade West Council of Governments on rural banking and economic development. Conversations and meetings are continuing on both fronts. Cascade West Council of Governments Executive Director Fred Abousleman has been very active in working with all cities around these important issues facing small communities especially.

The Bi-Mart Willamette Country Music Festival is planning a four day gala for their 10<sup>th</sup> Anniversary in Brownsville. The Linn County Commissioners have been working with the event very well since the changes in the Linn County Code were adopted. The Festival has received conditional approve through 2018 and will be submitting a proposal for an additional year in the Spring of 2017.

Administrative Assistant Elizabeth Coleman and City Administrator Scott McDowell met on several occasions with McFarland Cascade regarding property development. The City was informed in September that due to the purchase of the acreage to the south of McFarland cascade, they were no longer interested in selling the acreage they were previously making available to the east of their property. McFarland is also interested in pursuing an Urban Growth Boundary expansion that would allow them to expand to the west. Staff has met with the State and Planner Dave Kinney on this matter. Administrative Assistant Elizabeth Coleman is currently researching the proper course of action.

Azalea Rojo, LLC from Boston, Massachusetts purchased over 360 acres of land abutting the City and constructed a large vineyard. The plans for the property have not been disclosed to the public.

Several other projects are being planned for both residential and commercial development within the City limits.

Council extended the organizational development agreement with the Central Linn Recreation Association.

**June 2016 Update:** Staff directing private parties discuss land purchase & development options with McFarland Cascade. Staff has encountered a few problems with the continued implementation of services with the CLRA. Staff is overly involved with projects regionally; working on the Visit Linn Coalition, the Ford's Go Team, the East Linn Cohort through the Ford Foundation, working with the State and Linn County on opportunities. Administration changes in Sweet Home may delay some of the implementation efforts of the regional strategy. Staff has meet with Cascade West Council of Governments leadership to discuss opportunities as well.

#### 4. Community Development Plan.

- *Refine Zoning Rules & Requirements.*
- *Consider & Adopt New Policies & Standards.*



## 2015-2016 Council Goals

- *Finish & Implement a Sidewalk Program.*
- *Improve Partnerships with CLSD.*

**Plan:** Council would like to continue looking at ways to effect overall livability including right-of-way management. Install sidewalk into Pioneer Park from the Rec Center. Fully develop the City's sidewalk inventory plan getting the plan ready for approval by Council. Continue to try to develop an effective working relationship with the CLSD to assist with their community development plans.

**2016 November Final Update:** Council was never able to reconvene on plans formed during the goal setting session in February, therefore, no legislation was passed by Council to achieve these goals.

Budget Committee decided to not move forward with the sidewalk program for this fiscal year due to the improvements being assessed to property owners.

Council has made many attempts since October 6<sup>th</sup>, 2015 to work with the Central Linn School Board on the Blakely Avenue project, but has never received any answers to the questions Council formulated. Council is aware that the property and project are the sole responsibility of the Central Linn School Board. The City feels that the Board's current option of working with Willamette Neighborhood Housing Services (WNHS) is more than likely the best use for the property. The City wants to ensure that 1) the Planning Commission is not left in a precarious position due to proper community communication not occurring, 2) the City wants to see full tax value on all properties developed, 3) the City is not interested in providing System Development Charges (SDC) credits or reductions, and 4) the City does not wish to participate in extending water or sewer lines, storm water lines or extended any streets in conjunction with this development.

**June 2016 Update:** Council needs to finish the action plan pertaining to this goal. The sidewalks have been extended into Pioneer Park from the Rec Center. City Hall sidewalks and improvements are completed. The overall City-wide sidewalk program is still pending. Council has been working with the Central Linn School Board on possible options for the Board's property on Blakely Avenue. The Central Linn School Superintendent and Board has not answered Council's questions about the property or any future agreement. Please see Council agenda packets for more detailed information. Mayor Ware was asked by Council to move forward with a meeting with Central Linn School District's Board President Mark Penrod to discuss the implications of the School's imminent deal with Willamette Neighborhood Housing Services for the Blakely Avenue property.

### 5. Capital Improvements Plan.

- *Execute 2015 Water Improvements Project Contracts.*
- *Plan & Construct Downtown Wastewater & Stormwater Improvements.*
- *Estimate City portion of Kirk Avenue Improvements.*
  - Wastewater Treatment & Collections
    - Council has budgeted for a well for the South Plant.
    - Council understands that nearly 45% of the collection lines are in need of replacement.
  - Kirk Avenue Improvements



## 2015-2016 Council Goals

- Council has determined that the first block of Kirk from Main Street to Averill Street will be fully reconstructed with sidewalks, curb and gutter improvements. The remainder of Kirk Avenue will be a grind and overlay project.
- Council's only other alternative is to execute the project as a City project and assess all abutting property owners according to the project cost.

**2016 November Final Update:** Public Works Superintendent Karl Frink and City Administrator Scott McDowell presented The Future which was a look at the overall status of the City's assets specifically the General Fund & Utility Funds. Frink and McDowell project the City's cost to be between \$80,000 and \$160,000 to move water and sewer services, manholes and fire hydrants. Since the City does not know the planned design of the project, it is impossible to be precise with those projected costs. Public Works Superintendent Karl Frink reported that a water main may need to be relocated depending on the street design. The City could also be looking at

**June 2016 Update:** The 2015 Water System Improvements project is complete. Staff is exploring options with the storm water concern downtown; this particular project may be another year out in terms of funding for construction. Linn County is currently working on a Transportation System Plan (TSP) that will determine if Kirk Avenue will be funded or not. The TSP process will take over a year to complete and Council will want to attend certain meetings over the course of this year to advocate for Kirk Avenue. Kirk Avenue will cost the City a lot of money to improve even with the County doing a majority of the paving improvements. Depending on the design of the project, the City could be required to install additional storm water lines, adjust sanitary sewer manholes, adjust water services and sanitary sewer services.

### 6. Organizational Development.

- *Implement Accountability System for all Officials.*
- *Focus on Council Development.*

**Plan:** Council recognizes the need for additional training & development. Council will continue to improve individually in their role as community leaders working together to accomplish shared organizational goals with Staff. Council implement accountability aspects of all officials both elected and appointed. Proper training and execution of responsibilities is vital for the overall health of the organization.

**2016 November Final Update:** Council decided to wait until after General Election and the new Council is seated. Council needs to strongly consider attending regional and statewide meetings when possible. Council should discuss member accountability and how Council as a group can improve in this important area. Council should consider NIMS, emergency preparedness training, as a requirement of membership.

**June 2016 Update:** Council may need to have a mini-retreat session this summer to regroup and refocus a few issues.

### 7. Emergency Preparedness Plan.

- *Compose a Written Emergency Plan.*
- *Work with Area Partners on a continual Community Education Program.*
- *Develop Agreements with Community Partners.*



## 2015-2016 Council Goals

**Plan:** A larger community effort is necessary for this task. Staff will work on the internal plan for the City.

**2016 November Final Update:** Administrative Assistant Tammi Morrow and City Administrator Scott McDowell met with Mr. Simms, Mrs. Frazier and Mr. Stucky. The group is working on a presentation for Council in December in order to meet Council's request. The group will be outlining their strategy with timelines for certain aspects of their plan.

**June 2016 Update:** Mr. Norman Simms has agreed to be the Volunteer Emergency Preparedness Coordinator. Mr. Simms will work with Staff to develop strategy and form a committee to assist implementation efforts as laid out by ordinance. Council has a plan in place for the active implementation of this goal through 2016.



## **PROCLAMATION**

### **A PROCLAMATION THANKING AMANDA WRIGHT FOR HER SERVICE TO BROWNSVILLE CITIZENTRY**

**WHEREAS**, the City of Brownsville prides itself as a wonderful place to call home, full of friendly, caring people and historic charm; and

**WHEREAS**, the Brownsville City Council likes to recognize key community members who personify our best qualities; and

**WHEREAS**, Amanda Wright has unselfishly saved lives by awakening and alerting Kevin and Suzy Archer on January 27<sup>th</sup>, 2017 that their house was on fire, and helped them escape the blaze moments before the roof collapsed; and

**NOW, THEREFORE, BE IT PROCLAIMED** by the Mayor and Council of the City of Brownsville, Oregon:

Thank you for your watchful eye, heroic response, and unselfish actions, resulting in saving lives and nearby properties.  
You are valued member of our community!

**ATTEST:**

**APPROVED:**

S. Scott McDowell  
City Administrator

Don Ware  
Mayor





## RESOLUTION 2017.05

**A RESOLUTION INCREASING SOLID WASTE RATES BY 2.1% AND SETTING FEES AS AUTHORIZED BY THE FRANCHISE AGREEMENT AND REPEALING AND/OR SUPERCEEDING ANY OTHER RESOLUTION IN CONFLICT HEREWITH.**

**WHEREAS**, Ordinance 737 was passed by the Council and approved by the Mayor on January 22<sup>nd</sup>, 2013 which defined the Solid Waste Franchise Agreement that authorizes charges and fees to be set by Resolution of the Council and reviewed as needed and recommended by the Franchisee;

**WHEREAS**, the City requires the passage of a resolution each time rates are increased in order to fully review and articulate the charges of and by the Franchisee to the general public and;

**WHEREAS**, the rates shall also include a \$.59 per month charge for an annual Household Hazardous Waste Day to be held in Sweet Home and;

**WHEREAS**, the Franchisee has experienced increased overhead costs such as recycling and landfill tipping fees and;

**NOW THEREFORE BE IT RESOLVED** that the rates and fees will be as follows:

<b>Residential Service:</b>	2017
Cans and Carts	
1-20 gallon weekly	\$11.65
1-35 gallon weekly	\$26.00
1-90 gallon weekly	\$32.35
<b>Other Services</b>	
Yard Debris Only	\$5.25
Recycling Only	\$5.25
Recall Fee	\$9.40
Access Fee	\$6.20
Extra Can/bag/box (up to 32gallon)	\$4.10
<b>Commercial Service:</b>	
90 gallon cart	\$32.95
35 gallon cart	\$28.25

**RESOLUTION 2017.05*****1 Yard Container***

Rental	\$53.40
Once per Month	\$73.00
Every Other Week	\$90.20
Weekly	\$115.70
2X per Week	\$208.45
Extra Dump	\$33.25

***1.5 Yard Container***

Rental	\$53.40
Once per Month	\$79.30
Every Other Week	\$103.85
Weekly	\$141.10
2X per Week	\$268.10
Extra Dump	\$38.20

***2 Yard Container***

Rental	\$53.40
Once per Month	\$85.45
Every Other Week	\$115.80
Weekly	\$183.50
2X per Week	\$329.25
Extra Dump	\$42.65

***3 Yard Container***

Rental	\$53.40
Once per Month	\$93.35
Every Other Week	\$176.35
Weekly	\$264.35
2X per Week	\$474.70
Extra Dump	\$47.45

***4 Yard Container***

Rental	\$53.40
Once per Month	\$109.70
Every Other Week	\$183.55
Weekly	\$308.10



## RESOLUTION 2017.05

2X per Week	\$554.20
Extra Dump	\$77.05
<b><i>Temporary 4 Yard Container</i></b>	
3 Days	\$97.30
Extra Dump	\$77.05
Demurrage per Day After 3 Days	\$3.50
3 Tab Roofing (3 days)	\$144.70
Extra Dump	\$114.15
<b>Roll-Off Services:</b>	
20 Yard Box/per Haul	\$159.00
30 Yard Box/per Haul	\$181.75
48 Yard Box/per Haul	\$204.45
Tonnage	\$67.65
Delivery	\$29.40
Demurrage – after 3 days	\$7.95
Relocation Fee	\$55.45
Monthly Rental	\$89.40

This Resolution shall become effective March 1<sup>st</sup>, 2017.

Passed by the City Council on this 28<sup>th</sup> day of February 2017.

---

Don Ware  
Mayor

***Attest:***

---

S. Scott McDowell  
City Administrator



## ORDINANCE NO. 765

### AN ORDINANCE ADDING SECTION 13.05.505 ARRANGEMENTS & CREDITS, AMENDING SECTION 13.05.490 DELINQUENT ACCOUNTS, AMENDING SECTION 13.05.500 RESPONSIBILITY FOR PAYMENT OF BILLS OF TITLE 13, UTILITIES, OF THE MUNICIPAL CODE OF THE CITY OF BROWNSVILLE, OREGON;

The City of Brownsville does ordain as follows:

**WHEREAS**, Title 13 of the Brownsville Municipal Code (BMC) defines Utilities, and;

**WHEREAS**, Council wishes to clarify certain utility billing procedures as provided herein;

**NOW THEREFORE**, the City of Brownsville ordains as follows:

**Section 1.** Section 13.05.505 Arrangements & Leaks is added to read as follows:

#### 13.05.505 Arrangements & Leaks.

- A. Payment arrangements by customers shall not be allowed unless they are duly authorized in the Brownsville Municipal Code.
- B. Any payment arrangements by customers that fall within the allotted time frames provided by the Brownsville Municipal Code may be done at the convenience of the City Administrator or designee based on the operational needs of the City.
- C. When leaks are detected by the City or by the Customer, the City Administrator or designee has the authority to provide a reduction of the utility bill not to exceed 50% of the utility bill. Any authorization or request in excess of 50% and more than \$200, may go before Council either at the request of Staff or the customer.

**Section 2.** Section 13.05.490 Delinquent Accounts is amended to read as follows:

- A. Any charges more than 30 days past due as of the tenth of any month will be considered delinquent. A delinquent notice will be mailed by the fifteenth of that month, and will include an additional charge as set by resolution. If the delinquency is not corrected before the **regular shutoff day which will be the fourth Wednesday**, water service will be discontinued.

Customers who turn on their water service after it has been discontinued by the City, prior to payment of amount owed, will be in violation of this chapter and will be subject to penalties in accordance with BMC 13.05.680.

- B. **Wednesday** shall be the **shutoff** date unless a City holiday is on **Wednesday**, then the date shall be Tuesday. The meter reader or other agent of the City shall advise the occupant on the premises, **by posting a twenty-four (24) hour notice on the door of the property**, the day before the water service is to be disconnected unless the delinquent amounts are paid by the specified date. When the notice is delivered, an



additional fee, as set by resolution, shall be added to the amount due. If no one responds to the agent's knock, the agent shall leave a notice on the door that the water service will be turned off as specified by the twenty-four (24) hour notice unless payment is received. If payment is not received, the agent shall shutoff the service based on the twenty-four (24) hour notice.

- C. The customer owing the water bill shall pay the restoration fee plus any additional fees as stated in subsections (A) and (B) of this section, plus the delinquent water bill, before the City will restore water service. Service will be restored during normal business hours.
- D. The City Administrator, in cases of extreme hardship, shall have the discretion to decide not to discontinue service or to renew service to a delinquent account upon the acceptance of a valid plan for the payment of past due amounts in installments. [Ord. 720, 2009; Ord. 594 § 1, 1990; Ord. 581 § 1, 1988; Ord. 534 § 17, 1981; 1981 Compilation § 3-2.17.]
- E. The City will not shutoff water service during freezing weather to protect the integrity of the distribution system.

**Section 3.** Section 13.05.500 Responsibility for Payment of Bills is amended to read as follows:

- A. The property owner of record shall be responsible for the payment of all charges prescribed in this chapter. If the property is rented and the renter fails to pay the charges, the City Administrator shall submit the bill to the property owner. [Ord. 534 § 18, 1981; 1981 Compilation § 3-2.18.]
- B. Accounts incurring insufficient funds from a financial institution shall pay all charges against the account to restore service, if service has been shutoff. The City may invoke BMC 13.05.540. If BMC 13.05.540 is invoked, service would be discontinued immediately. The City will require different payment options for any account incurring an insufficient funds notice from a financial institution at the sole discretion of the City Administrator or designee.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR, emergency, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**Attest:**

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

\_\_\_\_\_  
City Administrator S. Scott McDowell



**ORDINANCE NO. 766**

**AN ORDINANCE ADDING SECTIONS 09.10.025 DISORDERLY CONDUCT, 09.10.035 HARASSMENT, 09.10.065 USE, 09.10.070 INDUCTION, AMENDING SECTION 09.10.030 DRINKING IN PUBLIC, OF TITLE 9, OFFENSES RELATING TO PUBLIC ORDER, OF THE MUNICIPAL CODE OF THE CITY OF BROWNSVILLE, OREGON;**

The City of Brownsville does ordain as follows:

**WHEREAS**, Title 9 of the Brownsville Municipal Code (BMC) defines Offenses Relating to Public Order, and;

**WHEREAS**, Council wishes to strengthen public safety; and,

**WHEREAS**, Council wishes to provide law enforcement with the necessary tools to address situations as they arise; and,

**NOW THEREFORE**, the City of Brownsville ordains as follows:

**Section 1.** Section **09.10.025 Disorderly Conduct** is added to read as follows:

**09.10.025 Disorderly Conduct.**

1. A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he/she:
  - a) Engages in fighting or in violent, tumultuous or threatening behavior; or
  - b) Makes unreasonable noise; or
  - c) Uses abusive or obscene language, or makes an obscene gesture, in a public place; or
  - d) Disturbs any lawful assembly of persons without lawful authority; or
  - e) Obstructs vehicular or pedestrian traffic on a public way; or
  - f) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
  - g) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or
  - h) Creates a hazardous or physically offensive condition by any act which he/she is not licensed or privileged to do.
2. Public Intoxication. A person commits the crime of public intoxication if he/she creates, while in a state of intoxication, any disturbance of the public in any public or private business or place.



**Section 2.** Section **09.10.035 Harassment** is added to read as follows:

**09.10.035 Harassment.**

1. A person commits the crime of harassment if, with intent to harass, annoy or alarm another person, the actor:
  - a) Subjects another to offensive physical contact;
  - b) Publicly insults another by abusive or obscene words or gestures in a manner likely to provoke a violent or disorderly response;
  - c) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm;
  - d) Subjects another to alarm by conveying a telephonic, electronic means and/or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm;
  - e) Subjects another to alarm or annoyance by telephonic use of obscenities or description of sexual excitement or sadomasochistic abuse or sexual conduct as defined in ORS 167.060 including intercourse, masturbation, cunnilingus, fellatio, or anilingus, which use or description is patently offensive and otherwise obscene as defined in ORS 167.087(2)(b) and (c); or
  - f) Causes the telephone of another to ring with no communicative purpose.
2. A person is criminally liable for harassment if the person knowingly permits any telephone under the person's control to be used in violation of subsection (1) of this section.

**Section 3.** Section **09.10.065 Use** is added to read as follows:

**09.10.065 Use.**

It is unlawful for any person to knowingly smell or inhale any drugs, or other noxious substances or chemicals containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons, or any other substances containing solvents releasing toxic vapors in such excessive quantities as to cause conditions of intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system. This applies with particularity to, but not limited to, fingernail polish, model airplane glue, or any other substance or chemical which has the aforementioned effect upon the brain or nervous system when inhaled.

**Section 4.** Section **09.10.070 Induction** is added to read as follows:

**09.10.070 Induction.**

It is unlawful for any person other than a licensed physician to cause, invite or induce any person to smell or inhale any drugs or noxious chemicals containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons, or other substances releasing toxic vapors, which when inhaled or smelled in excessive quantities cause conditions of



intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

**Section 5.** Section **09.10.030 Drinking In Public** is amended to read as follows:

1. It is unlawful for any person to drink or consume any alcoholic beverage while in or upon any street, alley, public grounds, building, or place open and available to the general public, or while in a motor vehicle on premises open to the public.
2. It is unlawful to possess on one's person any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or upon which a seal has been broken, or from which the contents have been partially removed while in or upon any street, alley, public grounds, building, or place open and available to the general public, or while in a motor vehicle on premises open to the public.
3. The prohibitions of subsections (1) and (2) of this section shall not apply to any place wherein the possession or consumption of alcoholic beverages is subject to the control or regulation of the Oregon Liquor Control Commission, where otherwise permitted by State law, or where otherwise authorized by the City of Albany or in any City park wherein the possession or consumption of alcoholic beverages is not prohibited by other provisions of this code.
4. A violation of this section is a misdemeanor punishable under the general penalty provided in Chapter [1.05](#) BMC.
5. For purposes of this chapter, an alcoholic beverage is defined as any beverage containing more than one-half percent of alcohol by volume and every liquid or solid, patented or not, containing alcohol, and capable of being consumed by a human being.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR, emergency, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**Attest:**

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

\_\_\_\_\_  
City Administrator S. Scott McDowell





February 8, 2017

Brownsville City Council  
255 N Main St.  
PO Box 180  
Brownsville, OR 97327

RE: Request for Solid Waste & Recycling Annual CPI (2.1%) Rate Adjustment from Sweet Home Sanitation

Dear Council:

Over the course of providing many years of service to the citizens of the City of Brownsville, we have actively sought out new cost effective ways to provide a high level of service to our customers. Sweet Home Sanitation and our employees are committed to "Doing Good in our Communities". The highlights of 2016 include:

- Accident free year throughout all of our service area
- Annual Household Hazardous Waste Event
- Removed 45 tons of material during Brownsville City Clean-up
- Awarded 1st Annual Central Linn High School Scholarship
- Partnered with Sharing Hands to donate 10 children's bicycles for Christmas

We are thankful to have the opportunity to partner with the City of Brownsville in serving the needs of the local community, and look forward to again serving the citizens of the City of Brownsville in 2017.

Looking to the year ahead, we are requesting for the solid waste collection rate to be adjusted per Section 7.4 of our franchise agreement. The proposed adjustment is based on the Consumer Price Index which indicates a need for a 2.1% increase. This adjustment equates to an additional \$.55/month for our most frequently utilized service level.

We look forward to meeting with you the next council meeting and answering any questions you may have. Thank you in advance for your time and please let us know if you need any additional information.

Respectfully Submitted,

  
Josh Metcalf  
District Manager

  
Scott Gagner  
Site Manager



## RECREATION CENTER

### OPERATION AGREEMENT

**BETWEEN:** The City of Brownsville, an Oregon Municipal Corporation (CITY)

**AND:** Brownsville Recreation Center, Inc. (OPERATOR)

### RECITALS

- A. The City owns the Recreation Center Building and Facility commonly known as the Recreation Center located at 145 W. Park Avenue, Brownsville, Oregon.
- B. The Operator desires to operate the Recreation Center upon the terms and conditions set forth herein.

### AGREEMENT

1. **Recreation Center Operation.** City hereby designates, for the term of this agreement, Operator to be the exclusive manager and operator of the Recreation Center for the purposes detailed herein. Operator hereby agrees to manage and operate the Recreation Center based on the terms and conditions of this agreement.
2. **Term.** The term of this agreement shall be for a period of three years, commencing on M March 1<sup>st</sup>, 2017 and ending on January 31<sup>st</sup>, 2020. This agreement may be extended for an additional year under the same terms and conditions using an extension signed by both parties at least thirty (30) days prior to the end of the term.
3. **Purpose.** Operator shall use and occupy the Recreation Center “for public recreational purposes” as required by the property deed dated February 9, 1981, whereby School District Number 552-C granted the Recreation Center and property to the City of Brownsville. The deed can be found at the Linn County Courthouse at the Recorder’s Office in Volume 285, Page 662 and Page 663. The deed is attached to this Operation Agreement as Exhibit A.
4. **Consideration.** The Operator is providing services for the benefit of the public and no



monetary sum is to be paid to or by the Operator from the City, except as provided in Paragraph 14. The Operator is also granted permission to sublet certain areas of the Recreation Center at their discretion as articulated in Paragraph 15.

5. **Maintenance of Center.** Operator shall maintain the Recreation Center in as good a condition as it exists at the beginning of this Agreement and shall be responsible for repairs necessitated by Operator's negligence or normal wear and tear. City shall hold Operator, its officers, agents and employees, harmless from any and all claims, actions liabilities, costs, including costs of defense, arising out of or in any way related to property damage to the Recreation Center in excess of or different from the damage for which Operator has agreed to assume responsibility, except where such damage was caused by intentional acts or failures to act on the part of Operator, its officers, agents or employees. The City shall be responsible for the following items: 1) Building exterior, 2) parking lot, 3) bleachers, 4) the gym floor, 5) restroom fixtures/hot water heater, 6) heating & air conditioning, 7) smoke detectors & alarms, 8) fire extinguishers, 9) extermination services, 10) electrical, and 11) plumbing.
6. **Key.** Operator shall provide City with a key enabling City to obtain access to the Recreation Center. City shall give Operator notice before entering the Recreation Center whenever possible.
7. **Improvements and Extraordinary Repairs.** Operator shall not make any major structural changes, additions or improvement to or upon Recreation Center without the prior written consent of City, and that any such improvements so made or provided shall inure or revert to the benefit of City and become the sole property of City at the termination of this agreement as it may be extended or renewed.
8. **Recreational Immunity.** Due to recent changes in State Law, the City must have the maximum amount of flexibility to revise this agreement as changes come available through City/County Insurance Services (CIS) or through case law in the Oregon Court System. Resulting policy shifts from CIS may cause the Parks & Open Space Advisory Board and Council to adopt policy that could impede past practices and precedence of City operations in Pioneer Park. Changes could cause the Operator to provide additional proof of insurance, or could result in changes in requirements of the Operator to name a few examples. The future of individuals camping in Pioneer Park and the use of the kitchen are two major areas that could easily change due to policy shifts, risk analysis or otherwise. The City is under the legal obligation through their contract with CIS to follow necessary policy requirements as may deemed necessary for the good of the pool.
9. **Assignment and Transfer.** This Agreement shall not be assigned or transferred without written consent of City.



10. **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 Operator's use of the Recreation 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 Operator'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 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.
11. **Public Use.** Operator agrees to manage the Recreation Center without regard to race, color, sex, religion, age, national origin, or physical or mental handicap, and to charge for use of the Recreation Center only on the basis of a written rate schedule available to the public.
12. **Inspection of Records.** Operator shall provide City with an annual report of the operations of the Recreation Center. The City does have a representative appointed by Council who has the ability to review the records at any time and provide Council with operational information.
13. **Compliance with Laws.** Operator agrees to conform with all applicable laws and regulations of a public authority affecting the Recreation Center and its use, and to correct, at Operator's expense, any failure of compliance created through Operator's fault or by reason of Operator's use.
14. **Utilities.** Operator shall pay all utilities excluding electricity, water and the dedicated security system phone line. The City also provides a dumpster for use at the facility. The dumpster is provided as part of the City's Franchise Agreement with Sweet Home Sanitation.
15. **Reimbursement.** The reimbursement which City shall pay to Operator for both the



management and operation of the Recreation Center and the expenses incurred by Operator in performing the services or work, shall be \$2,500 per year. Payment for such services shall be made on or before February 1<sup>st</sup> of each year.

16. **Subletting.** The Operator shall have the right to sublet or sub-lease portions of the Recreation Center that are beyond the scope of the normal rental procedure as defined by the Operator subject to the review and approval of Council. The Operator shall be solely responsible for the subletting/rental agreement, insurance and compensation for the space provided to any third party. The Operator shall require the third party to provide appropriate documentation including but not limited to insurance coverage for property and liability.
17. **Worker's Compensation.** Operator shall comply with the Oregon Worker's Compensation law by qualifying as a carrier-insured employer or as a self-insured employer and shall strictly comply with all other applicable provisions of such law. Operator shall provide City with such further assurances as City may require from time to time that Operator is in compliance with these Worker's Compensation coverage requirements and the Worker's Compensation law.
18. **Independent Contractor.** In the management and operation of the Brownsville Recreation Center, Operator is acting as an independent contractor. The manner in which the services are performed shall be controlled by Operator; however, the nature of the services shall be consistent with Section 3 hereof. Operator is not to be deemed an employee or agent of City and has no authority to make any binding commitments or obligations on behalf of City except to the extent expressly provided herein.
19. **Termination by City.** City may terminate this Agreement at any time during its term by giving reasons deemed sufficient by City and complying with the following procedure:
  - 19.1. City shall give Operator notice that termination is being considered;
  - 19.2. City shall confer with Operator;
  - 19.3. If City determines that termination is appropriate, it shall state the reasons therefore and give Operator thirty (30) days written notice to vacate the Recreation Center.
  - 19.4. If Operator fails to vacate the Recreation Center, City may re-enter and take possession or pursue any other remedy available by law.



- 19.5 Termination of this Agreement shall also terminate any contract for services provided by Operator or other arrangements as provided herein. In the event of termination of this Agreement by City because of a breach by Operator, City may complete the work either by itself or by contract with other persons. Operator shall be liable to City for any costs or losses incurred by City arising out of or related to the breach.
20. **Termination by Operator.** Operator may terminate this agreement at any time during its term without giving reasons for the termination by complying with the following procedure:
- 20.1. Operator shall give City notice that termination is being considered;
  - 20.2. Operator shall confer with City;
  - 20.3. If Operator determines the termination is appropriate, it shall give City thirty (30) days written notice of its termination.
  - 20.4. Termination of this Agreement shall also terminate any contract for services provided by Operator. Operator's remedies upon such termination shall be limited to payment for work performed to the date of the termination.
21. **Waiver.** Any waiver of any condition of this agreement shall be in writing signed by both parties to the Agreement. Waiver by City of a strict performance of any provision of this Agreement shall not be a waiver of or prejudice to City's rights to require strict performance of the same provision or of any other provision in the future.
22. **Notices.** Any notices required or permitted under this Agreement shall be deemed given when actually delivered or three (3) business days following deposit in the United States mail as certified mail, return receipt requested, whichever shall first occur, addressed as follows:
- OWNER: City of Brownsville  
PO Box 188, Brownsville, OR 97327
- OPERATOR: Brownsville Recreation Center



PO Box 97, Brownsville, OR 97327

- 21. **Attorney Fees.** In the event action is brought to enforce any term of this Agreement, the prevailing party shall recover from the losing party reasonable attorney fees set by the trial and appellate courts.
- 22. **Amendment and Renewal.** The parties, having negotiated regarding the expiration of the existing Agreement within one year and related matters, agree to the amendment of the terms of that Agreement according to the terms and conditions set forth herein. The parties further agree that this amendment shall be effective immediately and that the amended Agreement shall have, subject to the terms and conditions set forth herein, a term of which shall be in conjunction with the original effective date of this Agreement.

**CITY:** CITY OF BROWNSVILLE

**OPERATOR:** BROWNSVILLE RECREATION CENTER, INC.

**By:**

**By:**

**Title:** Don Ware  
Mayor

**Title:** George Frasier  
President

**Date:**

**Date:**

**By:**

**Title:** S. Scott McDowell  
City Administrator

**Date:**

**S. Scott McDowell**

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**From:** Mike McDaniel <mikemcdaniel1525@gmail.com>  
**Sent:** Monday, February 06, 2017 9:02 AM  
**To:** S. Scott McDowell; Elizabeth Coleman  
**Subject:** Fwd: City of Brownsville, Or. Planning Commission Volunteer Position

----- Forwarded message -----

**From:** Mike McDaniel <[mikemcdaniel1525@gmail.com](mailto:mikemcdaniel1525@gmail.com)>  
**Date:** Wed, Feb 24, 2016 at 9:56 PM  
**Subject:** City of Brownsville, Or. Budget Committee Volunteer Position  
**To:** [admin@ci.brownsville.or.us](mailto:admin@ci.brownsville.or.us)

February 6, 2017

City of Brownsville, Or. Planning Commission Volunteer Position

Dear Mr.McDowell, and Ms. Coleman,

I am interested in filling the open position on the City of Brownsville's Planning Commission. I have 10 years working as a manager for the City of Coos Bay. And 20 years as a manager with a private contractor (OMI), in providing management, design and planning assistance, and operations for the City of Coos Bay. For most of those years, I was the primary person involved in reviewing designs and working with the City's Planning Commission to make sure the City had the best information to make the correct decisions when it came to planning. I have come to understand what is needed in order for a city to operate in a responsible planning and fiscal manner. This experience should be a valuable asset to the Planning Commission should I be accepted for the position.

I am a resident living in the City of Brownsville's city limits. My main concern is to make a positive impact here in Brownsville this being my home. Being retired, I see no reason why I wouldn't be able to attend all the Planning Commission meetings and workshops. I am an reliable, dependable person who works well with others.

Thank you for your consideration.



**S. Scott McDowell**

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**From:** Liza Newcomb <liza.newcomb@w-nhs.org>  
**Sent:** Thursday, February 16, 2017 8:45 AM  
**To:** bmay@co.linn.or.us; Brian Latta - City of Harrisburg (blatta@ci.harrisburg.or.us); Catherine Nelson; Dean Baugh - City of Lebanon (dbaugh@ci.lebanon.or.us); Georgia Edwards - City of Tangent (georgia@cityoftangent.org); Hilary Norton (hilary@cityofhalsey.com); Judy Smith - City of Sodaville (Sodaville@cityofsodaville.org); Raymond Towry (rtowry@ci.sweet-home.or.us); sciocitymgr (sciocitymgr@smt-net.com); Scott McDowell - City of Brownsville (admin@ci.brownsville.or.us)  
**Subject:** Save the date! WNHS 25th Anniversary

# Save the Date!



## 25th Anniversary Celebration

*Twenty-five years of service, because Home Matters.*

**Thursday, April 20, 2017**  
**5:30–7:00pm**

**Location:**

LBGC, Commons Dining Hall  
6500 Pacific Blvd. SW, Albany, Oregon

w-nhs.org  
info@w-nhs.org  
541.752.7220



**CENTRAL LINN SCHOOL DISTRICT  
32433 HWY 228, HALSEY**

**SCHOOL BOARD WORK SESSION  
HIGH SCHOOL CAFETERIA**

**INDIVIDUALIZED EDUCATION FOR ALL LEARNERS  
February 8, 2017  
6:30 p.m.**

- 1.0 CALL TO ORDER**
- 2.0 CLES PROCESSING**
- 3.0 DIRECTION TO STAFF AND NEXT STEPS**
- 4.0 BROWNSVILLE GYM**
- 5.0 ADJOURN**

SCHOOL BOARD WORK SESSION  
FEBRUARY 8, 2017

BROWNSVILLE GYM & PARKING  
PROPOSED COSTS

PARKING LOT (\$7.71 sq. ft.)	\$138,780
LIGHTS (4)	\$ 26,660
GYM ROOF (\$6.74 sq. ft.)	<u>\$ 86,056</u>
<u>TOTAL</u>	<u>\$251,496</u>

HWY 228

.57 ACRE  
24,892 SF  
(27,688 here)  
scale is not quite right here...need a survey...

SITE PLAN #1  
REVISION 1  
1-9-16

WASHINGTON AVE

.59 ACRE  
25,976 SF  
4x6500=26,000

Seavey CLT SFH with Garage

.93 ACRE  
40,512 SF

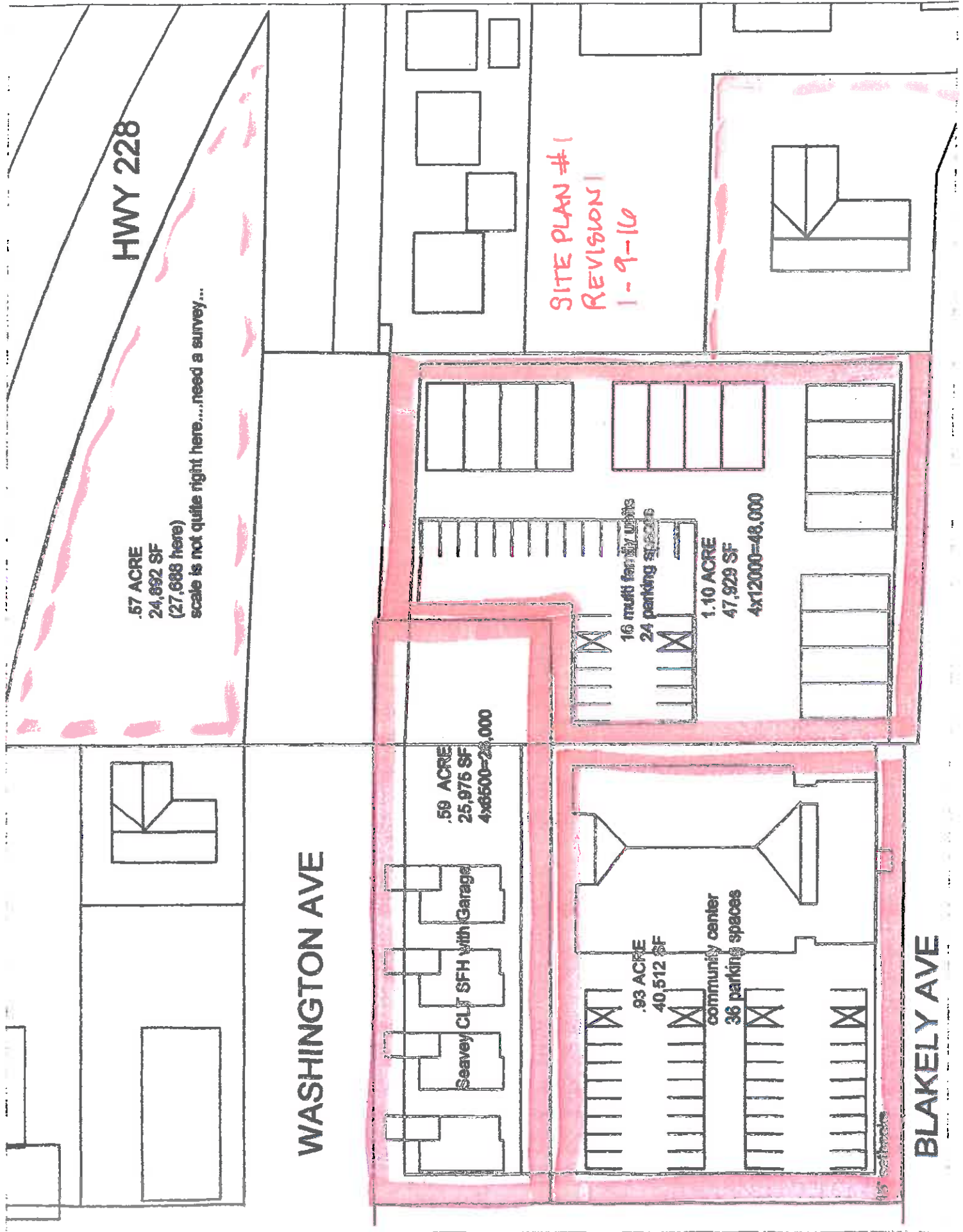
community center  
36 parking spaces

16 multi family units  
24 parking spaces

1.10 ACRE  
47,929 SF  
4x12000=48,000

BLAKELY AVE

15 Setbacks



**Linn/Benton/Lincoln/Lane Counties  
Interagency Eclipse Meeting  
Friday, February 10, 2017 2:00 – 4:00 p.m.  
Oregon Cascades West Council of Governments – 2<sup>nd</sup> Floor Large Conference Room  
1400 Queen Avenue, SE  
Albany, OR**

**MEETING GOAL:** To share information and coordinate federal, state and local activities to prepare for August 21, 2017 Total Eclipse in Oregon. Identify gaps and follow up.

### **AGENDA**

1. Welcome/Introductions
2. Total Eclipse Overview – Tom Carrico, Astronomer
3. Local events, activities, and planning
  - Statewide Events & Marketing Efforts – Travel Oregon
  - Regional/Local Events & Marketing Efforts
    - Counties: Linn, Benton, Lincoln, Lane
    - Oregon State University
    - Cities: Brownsville, Corvallis, Albany, Salem, Eugene, Philomath, Scio, Others
    - Regional Planning: Oregon Festival and Event Association, SOLV
4. State/Federal Agency Updates
  - Governor's Office
  - Oregon Emergency Management
  - Oregon Department of Transportation
  - Oregon Parks and Recreation Department
  - Oregon State Police
  - Oregon Department of Forestry
  - Oregon Department of Aviation
  - US Forest Service
  - Bureau of Land Management BLM
  - Confederated Tribes of the Siletz
  - Army Corps of Engineers
  - US Fish & Wildlife
5. County/City Public Safety/Transportation/Emergency Management Updates
  - Benton County
  - Linn County
  - Lincoln County
  - Lane County
  - Cities
6. Questions/ Next Steps



[www.ci.brownsville.or.us](http://www.ci.brownsville.or.us)

**City Hall**  
 255 N. Main Street • P.O. Box 188  
 Brownsville, OR 97327 • 541.466.5666  
 Fax 541.466.5118 • TT/TDD 800.735.2900

**January 26<sup>th</sup>, 2017**

**Department of Environmental Quality**

**Attn: Priscilla Woolverton, Upper Willamette TMDL Basin Coordinator**

165 E. 7th Ave., Ste. 100  
 Eugene, OR 97401-3049  
 541.687.7347

Dear Ms. Woolverton,

Enclosed you will find Brownsville's Implementation Tracking Matrix as requested. You will also find a complete copy of the City's Total Maximum Daily Load Plan. Public Works Superintendent Karl Frink and City Administrator S. Scott McDowell met with Ms. Nancy Gramlich and Ms. Pamela Wright on January 26<sup>th</sup>, 2016 to discuss the challenges the City faced with the implantation of TMDL. The City was encouraged at that time to expand parts of the TMDL plan to demonstrate and incorporate the City's financial situation. Council directed Staff to do just that with this recent plan update.

Council unanimously approved the plan enclosed at the January 24<sup>th</sup>, 2017 Council meeting. The City will continue to do everything within our power to make clean water a priority in Brownsville. In 2008, the City completed the largest capital improvements project in the history of the City spending \$8.5 M on two new wastewater treatment plants and replacing 55% of the wastewater collection system. The City also received and maintains a new NPDES permit as you know.

The City, however, has limited funding resources, Staff resources and a considerable backlog of capital improvements projects many of which have manifested in emergency repair projects over the last several years. The Budget Committee and Council have to make difficult decisions each and every year to provide the level of service our citizens and constituents expect.

Please contact Scott or Karl with any questions you may have. Your assistance is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Don Ware".

**Don Ware**  
 Mayor

**c: Council**  
 Public Works Superintendent Karl Frink  
 City Administrator S. Scott McDowell

**S. Scott McDowell**

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**From:** Meyer, Alan <Alan.Meyer@pacificorp.com>  
**Sent:** Friday, February 10, 2017 9:39 AM  
**To:** Meyer, Alan  
**Subject:** Oregon Public Utility Commission High Energy Bill Explanation

Good morning,

This may be useful to you with all of the misinformation on social media regarding high energy bills. Not to get too much into the weeds, but please keep in mind that the information in the below article represents averages for both Pacific Power and Portland General Electric and our service territories which are quite different from one another.

<http://www.puc.state.or.us/consumer/High%20Bill%20Website%20Article.pdf>

Thank you and please let me know if you have any questions.

Alan Meyer | Pacific Power | Desk (503) 767-6809 | Cell (503) 913-9364 | Outage Help (877) 508-5088  
Email: [alan.meyer@pacificorp.com](mailto:alan.meyer@pacificorp.com) | Website: <http://www.pacificpower.net/bus.html>

*Pacific Power Business Solutions Toolkit: A unique service for our business customers. [Find out more!](#)*

# SDAO Special Districts Association of Oregon



**RECREATIONAL  
IMMUNITY  
CALL TO ACTION**



# Restore Recreational Immunity

In the July/August 2016 issue of News and Risk Management Review, we brought you information about a recent Oregon Supreme Court case (Johnson v. Gibson) that has threatened recreational immunity. Recreational immunity, derived from the Public Use of Lands Act, extends immunity from liability to landowners who make their lands available to the public free of charge. It was designed to protect landowners, both public and private, from liability should a person become injured while using the land for recreational purposes.

The Oregon Supreme Court ruled that when the Legislature passed the Public Use of Lands Act, it only immunized the actual landowner and did not extend the immunity to employees, agents, and volunteers who act on behalf of the landowners.

This ruling has a significant effect on special districts. Since public employers are statutorily required to represent and indemnify their employees, agents, and volunteers, it exposes them to an increased risk of liability. It means recreational immunity no longer exists for a district when an employee, board member, or other public official is named on a lawsuit which alleges damages resulting from a recreational activity.

Every member of SDIS provides valuable services to the people of Oregon. Our success directly affects individuals throughout the state. Together we must find a way to create a safe environment for the public while protecting the dollars that taxpayers have entrusted us with.



## **How Your District is Affected**

All 34 types of special districts are affected. More specifically, your district is affected if it owns property that you do not charge the public to access for recreational purposes. This could include areas like parks, playgrounds, recreational facilities, irrigation district easements, public docks, gifted or undeveloped property used for hiking, biking, hunting, etc., lakes/reservoirs used for boating and swimming, and more. As a result of this ruling, your district may face substantially increased insurance premiums for this new risk exposure; thereby resulting in reduced recreational opportunities or services, limiting access, or closing property to recreational use altogether.

## **What SDAO is Doing**

SDAO is a member of a coalition of public and private property owners who worked on a legislative proposal that has been introduced for the upcoming Legislative Session and will amend the Public Use of Lands Act.

## **How You Can Help**

We urge your board of directors to review the sample resolution we have developed (enclosed) and consider its adoption. After the resolution has been adopted, we would simply ask that you speak with your legislators explaining the need for fixing this decision and share the adopted resolution with them. Doing so will strengthen our voice on this important issue. If you need assistance locating your legislators, please visit [www.oregonlegislature.gov/findyourlegislator/leg-districts.html](http://www.oregonlegislature.gov/findyourlegislator/leg-districts.html).



# Frequently Asked Questions

## **What is recreational immunity?**

It is derived from the Public Use of Lands Act that was enacted by the Legislative Assembly in 1995. The driving policy behind this act was to provide more recreational opportunities to the citizens and visitors of Oregon. In order to accomplish this goal the Act extends immunity from liability to landowners, both public and private, who make their lands available to the public free of charge in the event a person is injured while using the land for recreational purposes.

## **What are recreational purposes?**

According to the Public Use of Lands Act, recreational purposes "include, but are not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, water skiing, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project, gardening, woodcutting and for the harvest of special forest products."

## **What has been the outcome of the Act?**

The Public Use of Lands Act has increased the availability of land for free recreation by limiting liability to cities, counties, parks, schools and a wide range of private owners, including farmers and timber companies that allow hunters, anglers, hikers, mountain bikers and other members of the public to use or traverse their lands at no charge.

## **What types of property does this decision impact?**

This decision impacts all public and private lands in Oregon that are available to the public free of charge to recreate on. This includes areas like state forests/parks, county parks, open space, playgrounds, recreational facilities, irrigation district easements, public docks, gifted or undeveloped property used for hiking, biking, hunting etc., lakes/reservoirs used for boating and swimming, as well as farms, ranches and private forest lands.

## **Why is a legislative fix needed?**

For more than twenty years the Public Lands Use Act had been broadly interpreted. However, a 2016 Oregon Supreme Court decision, *Johnson v. Gibson*, undermined the immunity by ruling that when the Legislature passed the Public Lands Act it only immunized the actual landowner and did not extend the immunity to employees, agents, volunteers and the like who act on behalf of the landowners.

## **What has been the result of this decision?**

This ruling effectively undermines a public land-owners recreational immunity from tort liability under the Act because public employers are statutorily required to represent and indemnify their employees, agents and volunteers who are acting within the course and scope of their duties. Second, it exposes private land owners to similar liability because they will likely be ultimately found responsible for their employees' negligence.

## **What are the consequences of not amending the Act?**

As a result of this ruling both public and private landowners will likely face substantially increased insurance premiums for this new risk exposure, thereby forcing them to reduce recreational opportunities or services or to limit access or entirely close their property to recreational use.

## **What about the Constitutional Remedies Clause?**

Article 1, section 10 of the Oregon Constitution provides that "every man shall have remedy by due course of law for injury done him in his person, property, or reputation."

Fixing recreational immunity for public and private property owners will also require modifying a landowner's duty of care toward members of the public who use land for recreational purposes. Specifically, the legislation will expressly state the landowner's duties owed to members of the public in order to satisfy the remedies clause and ensure that the immunity is not illusory.

## **How will the bill clarify the duties owed to the public?**

The bill clarifies that a landowner does not owe a duty to inspect and maintain the land in a safe condition for entry or use by the public for recreational purposes. Therefore, the landowner does not extend any assurance that the land is safe for any purpose and does not assume responsibility or incur liability for injury, death or loss to any person or property.

## **Will the public still be able to sue landowners?**

Yes. Landowners, both public and private, will still be liable for intentional acts.

# Sample Resolution

**RESOLUTION NO. \_\_\_\_**  
**A RESOLUTION OF THE (Insert Name of Agency)**  
**(Insert Governing body title, e.g Board of Directors, City Council)**  
**RECOMMENDING RESTORING RECREATIONAL IMMUNITY RIGHTS**

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

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

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

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

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

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

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

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

**ADOPTED** by the Board of Directors of the (Insert Name of Agency) on (Insert Date).

\_\_\_\_\_  
 (Insert Name), (Insert Title)

Attest:

\_\_\_\_\_  
 (insert Name), (Insert Title)

**Resolution URL:**  
<http://ref.sdao.com/landuse/resolution.docx>



Toll Free: 800-285-5461

P.O. Box 12613  
Salem, OR 97309

S | D | A | O

SPECIAL DISTRICTS  
ASSOCIATION OF OREGON

## The Limits of Recreational Immunity: Landis v. Limbaugh

By Ashley Driscoll

While jogging on a sidewalk along a street, a woman tripped and fell on a section of the sidewalk that was pitched upward and suffered a fractured elbow that needed multiple surgeries. As a result, the woman sued Washington County, alleging that the county was liable for her injuries because it had failed to inspect and maintain the sidewalk and had failed to warn pedestrians of the sidewalk's condition. Washington County moved for summary judgment, and the trial court granted the motion, finding that the county was immune from liability under Oregon's recreational use statutes, otherwise known as "recreational immunity." The jogger appealed the trial court's decision and the Oregon Court of Appeals recently upheld her appeal and reversed and remanded the case.

### What is "Recreational Immunity?"

The basis for recreational immunity is found in the Public Use of Lands Act, which encourages owners of land to open the land up to the public for recreational purposes. In exchange, the landowners are not liable for any personal injury, death or property damage that arises out of the use of land for recreational purposes when the landowner either directly or indirectly permits any person to use the land for recreational purposes.

Put differently, Oregon encourages landowners to open their lands to the public by protecting them from lawsuits stemming from the public's use of their lands. If, for example, a city owns waterfront land and transforms it into a public park, the Public Use of Lands Act will protect the city against a lawsuit from a member of the public who uses the waterfront park for recreational purposes and becomes injured.

### What is the Central Question in this Case?

The central question in the current case is whether the statutory immunity applies when the principle purpose of the person using the land recreational, as the county argued, or whether the statutory immunity applies only when the landowner specifically made the land available for recreational use, as the jogger argued.



In the case at hand, the jogger was jogging on a public sidewalk, or land that was generally available to the public—not made specifically available for recreational use.

### Oregon Court of Appeals' Holding

In deciding in favor of the jogger, the Oregon Court of Appeals held that the critical determinate in whether recreational immunity applies is if landowners made the land available for recreational use, not whether the person using the land was recreating. Land that is generally available, such as sidewalks and streets that are not part of parks or places of recreation, and that the landowner has done nothing to "make available" for recreational use, are not covered by the immunity. The fact that the jogger was engaged in a recreational activity on publicly available lands did not automatically mean the immunity applied.

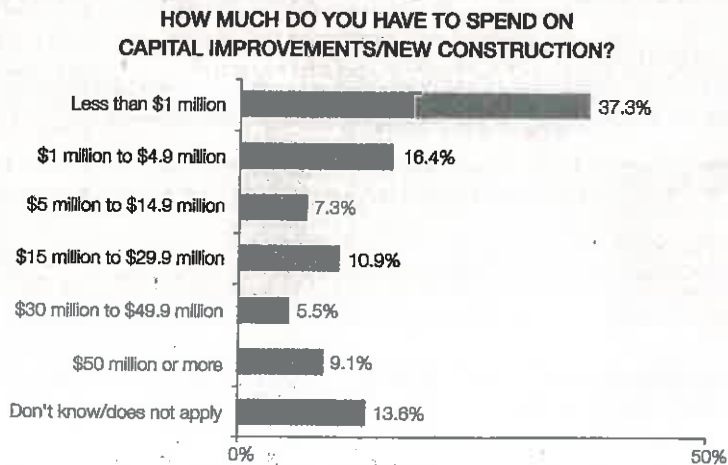
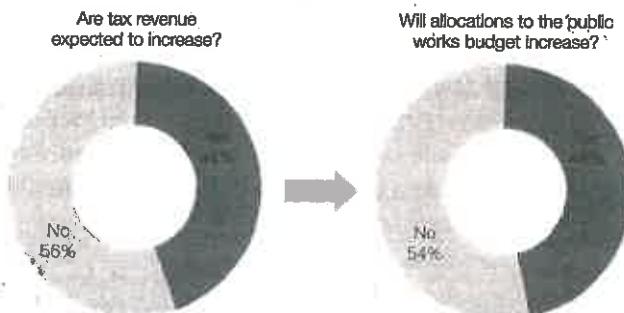
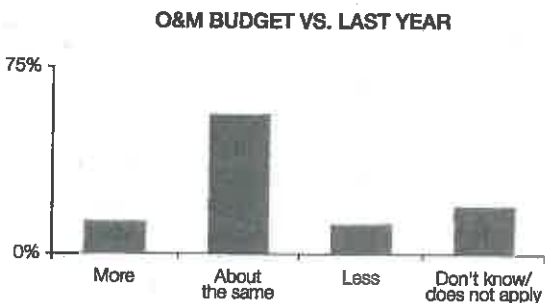
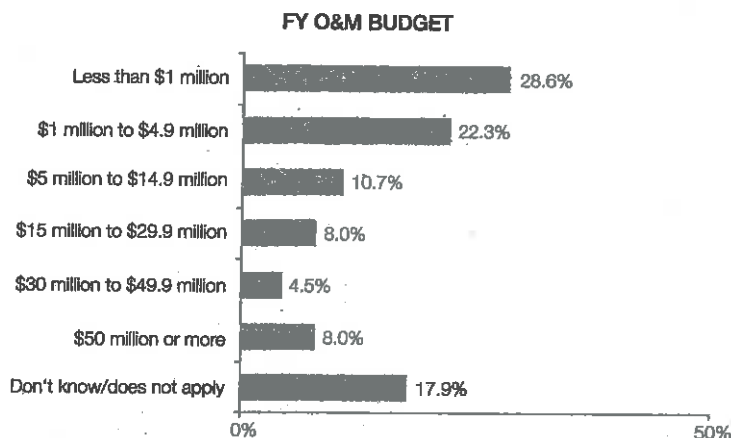
### Key Take-Aways

Cities should be aware of the limits of recreational immunity. This case holds that recreational immunity does not apply to all recreational activities on public lands. Instead, in deciding if a city is protected by recreational immunity, the courts will look to see if the land was made available specifically for recreational use when the claim occurred.

*Ms. Driscoll is an attorney with Beery Elsner & Hammond LLP.* ■

# The cost of keeping up our communities

Citizens in developed countries like the U.S. take the assets and services your team provides for granted even though they represent taxpayers' single largest investment. Every year we ask readers how residents are supporting this investment in quality of life.



**MONTH END RECAP**

	JANUARY 2017		YTD	%	Unexpended	
	REVENUE	EXPENDITURES				
1 GENERAL	\$ 19,534.07	\$ 59,751.23	\$ 425,475.69	36.41%	\$ 743,049.31	1
2 WATER	\$ 27,728.79	\$ 19,436.62	\$ 163,095.71	26.34%	\$ 456,154.29	2
3 SEWER	\$ 29,090.38	\$ 19,124.63	\$ 139,084.79	28.56%	\$ 347,840.21	3
4 STREETS	\$ 13,354.81	\$ 11,044.67	\$ 90,419.63	23.57%	\$ 293,180.37	4
5 WATER BOND	\$ 68.80	\$ -	\$ -	0.00%	\$ 85,003.00	5
6 SEWER BOND	\$ 567.68	\$ -	\$ 356,439.20	94.75%	\$ 19,735.80	6
7 SEWER DEBT FEE	\$ 11,277.55	\$ -	\$ 76,909.64	61.53%	\$ -	7
8 BUILDING & EQUIPMENT	\$ 366.94	\$ -	\$ -	0.00%	\$ 665,500.00	8
9 WATER RESERVE	\$ 1.15	\$ -	\$ -	0.00%	\$ 78,229.00	9
10 HOUSING REHAB	\$ 201.81	\$ -	\$ -	0.00%	\$ 199,875.00	10
11 WATER SDC	\$ 68.20	\$ -	\$ -	0.00%	\$ 74,145.00	11
12 SEWER SDC	\$ 270.57	\$ -	\$ -	0.00%	\$ 273,965.00	12
13 STORMWATER SDC	\$ 51.26	\$ -	\$ -	0.00%	\$ 53,126.00	13
14 BIKEWAY/PATHS	\$ 118.61	\$ -	\$ -	0.00%	\$ 38,398.00	14
15 LIBRARY TRUST	\$ 6.01	\$ -	\$ -	0.00%	\$ 5,931.00	15
16 CEMETERY	\$ 568.54	\$ -	\$ -	0.00%	\$ 68,025.00	16
17 TRANSIENT ROOM TX	\$ 474.14	\$ 3,610.00	\$ 3,610.00	82.05%	\$ 790.00	17
18 SEWER CONSTRUCTION	\$ -	\$ -	\$ -	0.00%	\$ -	18
19 LAND ACQUISITION	\$ -	\$ -	\$ -	0.00%	\$ 9,972.00	19
20 COMMUNITY PROJECTS	\$ 192.50	\$ 1,414.55	\$ 10,672.50	6.82%	\$ 145,827.50	20
	\$ \$103,941.81	\$ \$114,381.70	\$ 1,188,797.52			

**Key Bank Account**  
 General Checking \$ 63,318.50

**Oregon State Treasury** \$ 4,329,355.64  
**Community Improvements** \$ -

**2016-2017** Appropriated \$ 4,747,544.00  
**% of Total** 25.04%

**DEBT Payments**  
 Water \$ 54,928.00  
 Wastewater \$ 397,654.00

**Total Debt**  
 Water \$ 784,574.00  
 Wastewater \$ 6,145,365.00  
**Total** \$ 6,929,939.00