



# CITY OF BROWNSVILLE

## Council Meeting

Tuesday – October 28<sup>th</sup>, 2014

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

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Phases of the moon: 1:☉ 8:☉ 16:☉ 23:☉ 30:☉  
Holidays and Observances: 13: Columbus Day (Most regions), 31: Halloween

Sun	Mon	Tue	November Wed	Thu	Fri	Sat
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Phases of the moon: 6:☉ 14:☉ 22:☉ 29:☉  
Holidays and Observances: 11: Veterans Day 27: Thanksgiving Day

Sun	Mon	Tue	December Wed	Thu	Fri	Sat
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Phases of the moon: 6:☉ 14:☉ 21:☉ 28:☉  
Holidays and Observances: 24: Christmas Day 25: New Year's Day



# CITY OF BROWNSVILLE

## Council Meeting

City Hall – Council Chambers  
Tuesday, October 28<sup>th</sup>, 2014

### 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: September 23<sup>rd</sup>, 2014
- 6) PUBLIC HEARINGS OR PRESENTATIONS:
  - A. *'Livin' in Brownsville'* – Song Performance
  - B. Review Council Goals
- 7) DEPARTMENT REPORTS:
  - A. Sheriff
  - B. Public Works
  - C. Administration
  - D. Library
  - E. Court
  - F. Council
- 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. O 748: Public Works Standards, Accessory Structures & Fences  
(*First Reading*)
  - B. O 750: Imposing a Tax on Marijuana
  - C. R 2014.18: Adopting a Town Song

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.



- D. R 2014.19: System Development Charges Reversion
- E. R 2014.20: Adopting a Marijuana Tax Rate
- F. Nealon's Proclamation

**10) ACTION ITEMS:**

- A. Official Appointments (*Various Committees*)
- B. Satellite Providers & Local Coverage Request

**11) DISCUSSION ITEMS:**

- A. Bi-Mart Willamette Country Music Festival (*Outcome*)
- B. Emergency Contractor Resolution Concept
- C. Recreational Vehicles
- D. 2015 Council Meeting Schedule
- E. September 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) EXECUTIVE SESSION**

- Oregon Revised Statutes, Chapter 192.660 governs the conditions for a public body to convene in an Executive Session. The City will invoke Section (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.

**15) ADJOURN**

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



## Council Minutes

September 23<sup>rd</sup>, 2014

**ROLL CALL:** Mayor Don Ware called the meeting to order at 7:00 p.m. with Shepherd, Cole, Boyanovsky, Gerber and Chambers present. (Councilors Van Sandt arrived at 7:25 p.m.). Public Works Superintendent Karl Frink and City Administrator Scott McDowell, City Attorney Lauren Sommers, and Administrative Assistant Tammi Morrow were also present.

**PUBLIC:** Phil and Kaye Fox, Elizabeth Coleman, Jannea Deaver, Mike & JoAnn Neddeau, Marilee Frasier, Joni Nelson, Jennifer Moody, Allen Buzzard, John Morrison, Roger Gaither & Rod Sell (Santiam Spokes), Sergeant Brad Kelley, Larry Rolhbacker, Mary Swanson, Lloyd Morley III, Eva Jean Morley, Wesley Montgomery, Mike Landi, Caryn Shepherd, Sal & Leda Sepulveda, Ally Maser, Zack Cloud, Christine Harrison, Don Grubbs, Debbie Jensen, June Bvechting, Pam Parker, Rhea Graham, Bess Ludahl, Natalie Turner, Randy and Gayle Simpson, and Attorney Brian Michaels.

The pledge of allegiance was recited.

**ADDITIONS AND DELETIONS:** Mr. McDowell informed Council that he would not add items to the agenda tonight, as it looks to be a full agenda. Mr. McDowell did request that Santiam Spokes be allowed to present first, as the other issues could get quite lengthy.

**MINUTES:** Councilor Boyanovsky made a motion to approve the July 22<sup>nd</sup>, 2014 meeting minutes as presented. Councilor Cole seconded the motion, and it passed unanimously.

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

***Santiam-Calapooia Scenic Bikeway Proposal*** – Roger Gaither and Rod Sell they appreciated the hospitality they have received from Brownsville. Santiam Spokes is developing a 72.6 mile scenic bicycle ride/loop through Brownsville and would like a letter of support from the City for their proposal. The group will petition the State for the trail to complement the Willamette Valley Scenic Bikeway. They are seeking support from each community that this route will impact. There is no financial obligation from the City, but it should bring tourism dollars to each town. Oregon is the only state that has a scenic bikeway program. This is a great type of tourism, people come in, spend their money, and leave. There is a separate bike-friendly business program as well. Councilor Gerber made a motion to authorize the City Administrator to draft a letter in support of the Santiam-Calapooia Scenic Bikeway Proposal. Councilor Cole seconded the motion. Discussion was called for. Councilor Chambers asked if the money that is required to be budgeted for bikeways could be used for this project. Mr. McDowell responded that perhaps it could. Councilor Cole remarked that bicycling is just the demographic we looking for in Brownsville, and she thanked the gentlemen for being here to promote it. *The vote was called for, and passed unanimously.*

***Medical Marijuana Moratorium Update*** – Mayor Ware welcomed the audience to the meeting, and asked for civility. He stated that honor and respect for all will be observed and asked that everyone join in that effort. Comments will be limited to 3 minutes per person. Mr. McDowell thanked City Attorney Lauren Sommers for being present, and gave a brief overview of this issue Council has been working on for the last several months. A Medical Marijuana Committee was formed, and they brought forth a recommendation that the City implement a business registration program. State law has



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allowed cities to pass a moratorium, and the City has done that, acting in good faith. Since the moratorium has been enacted, the dispensary has opened, forcing the City to look at the rules, and see what kind of enforcement should happen. Mr. McDowell has prepared legislation for consideration tonight. Mr. McDowell has also been in contact with Linn County Sheriff Bruce Riley and they would like a piece of legislation from Council before enforcement will be acted upon. Mr. McDowell turned the meeting over to Attorney Sommers. Ms. Sommers stated that the Simpsons have been quoted in the *Albany Democrat-Herald* as wanting to open a medical marijuana dispensary. Attorney Sommers then went on the state that the proposed marijuana giveaways – they characterize as transactions between two cardholders. However, since the Simpsons are licensed, the City's position is that they are indeed acting as a dispensary with these transactions. Ms. Sommers has contacted the Oregon Health Authority (OHA), but they do not have the ability or intention of enforcing city ordinances. They enforce the State rules, not necessarily the City's ordinances. Mr. McDowell stated that Senate Bill 1531 says that cities are allowed to adopt moratorium, but it doesn't give folks an affirmative act to use marijuana. Safe harbor goes away if the dispensary is operating while under a moratorium. Staff has brought a general penalty provision which the City code does not currently contain.

If Council were to adopt this general penalty provision, then the City/LCSO could enforce all violations. Councilor Gerber inquired as to whether this new enforcement would fall back to provide for other situations in the code? Mr. McDowell replied in the affirmative, and stated that this legislation is very similar to Albany's code. State law states that the City can only impose a misdemeanor, with a maximum fine of \$6,000. This proposed general penalty provision is significantly less than the maximum penalty. Councilor Shepherd asked if this enforcement penalty could be used in other areas such as nuisances, junk, and weeds. Mr. McDowell responded that the nuisances ordinances – 8.50 already has a penalty stated in the Code. This provision will apply to all those ordinances and areas of the Code that do not currently have enforcement penalties. Councilor Cole asked how the enforcement would take place. Mr. McDowell responded that a peace officer could/would issue citations. Councilor Cole then commented that as much as she doesn't like having to vote for a general penalty provision, she thinks that the City needs something like this to uphold Council decisions. It is a tool that the City can use in many situations. She also stated that it doesn't mean the City would have to enforce or use the general penalty provision, just that the City could.

**Citizen Comments** – Attorney Brian Michaels, Eugene, stated that he had been retained by the Simpsons to represent them. He said the laws dealing with marijuana are very confusing, and now they have added in the dispensary situations. He said that prior to the dispensary act, you could not tell people that they could not grow marijuana in Oregon. The State law allows it. He said the moratorium makes no sense. Everywhere else in Brownsville you are allowed to grow and dispense, but the City is telling the Simpsons that they can't do it in the dispensary. Mr. Michaels stated that this is what will be addressed in litigation, when/if we get to that stage. Several people (many from out of town) spoke in favor of the dispensary, stating marijuana's medical benefits as well as creating a place of fellowship for users. One Brownsville citizen spoke in opposition to having the dispensary.

**Council Comments** – Councilor Cole stated that this issue is not about the efficacy or the contribution that medical marijuana makes to people's lives. That is not the issue we are discussing. The issue under discussion is about the fact that we have thoroughly discussed this situation in committee. That committee came forward with a recommendation, and Council then acted on this advice. The troubling issue is that the moratorium has been violated, and that doesn't sit well. The Simpson's behavior does



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not speak of being a good neighbor. Again, it's not about medical marijuana, it's about complying with City ordinances. Councilor Van Sandt apologized for being late. She agrees with Councilor Cole, and also stated that she is a registered nurse and understands the medical benefits of marijuana. The moratorium is only for a year. Councilor Van Sandt stated that the culture is swinging, and if they could just be patient, they may get through the process and then see what happens. Councilor Chambers stated that she agreed with Councilors Cole and Van Sandt. She also does not feel like the Simpsons have been good neighbors. She would like to go with the general penalty provision and enforce it. Councilor Boyanovsky quoted out of the 2014 Council Goals. Basically he said that our Municipal Code and ordinances that we put out are to strive to achieve a balance within the City. He has polled several of his constituents, and his vote will reflect their wishes. Councilor Shepherd reiterated that this issue is not about medical marijuana, it is more about good neighbor policy. Mayor Ware stated that this moratorium year would give the City time to study the issue and make sure that we had made the right decision for Brownsville. Instead, Mr. McDowell has received some disturbing communications from the Simpsons, calling the Council bigots. This is not right, and he will vote with the rest of the Council.

*Councilor Cole made a motion to approve Ordinance 749, as an emergency, effective immediately. Councilor Boyanovsky seconded the motion, and it was voted on and passed unanimously.*

Next item before Council was the Business Registration legislation. *Councilor Cole made a motion to pass O 747 as an emergency as well; it is a tool that City will be able to effectively use as needed. Councilor Shepherd seconded the motion.* Discussion followed with Mr. McDowell suggesting reviewing the exemptions. Ms. Sommers suggested that striking paragraph C might better serve Council's goals in this area. *Councilor Gerber made a motion to amend previous motion by Councilor Cole regarding O 747 by striking 5.20.010 section C. Councilor Shepherd seconded the motion, and it was voted on and passed unanimously. Councilor Cole made a motion to rescind her previous motion, and to pass O 747 as amended and as an emergency. Councilor Chambers seconded the motion, and it was voted on and passed unanimously.*

**Nuisance Abatements** – Mr. McDowell provided an update for Council. Clean-up Day was moved this year from April to October with the mindset that it would give the citizens an opportunity in the fall to do clean up. On September 12<sup>th</sup>, Councilor Shepherd and Mr. McDowell posted 12 properties for nuisances. In most cases, the residents were consulted and plans were made for compliance. In general, Staff goes out about once a week and checks the town for non-compliance issues and infractions. He reminded Council that we usually give a certain grace period so that folks can take corrective action on their own. It can take 3-4 weeks before a property is posted/abated. During this time, a *Request for Action* letter may be sent, which we feel is a kinder, gentler approach. Eight out of ten folks usually comply with this RFA. Keep in mind, the City is not trying to make the City look like *Better Homes and Gardens* we are just asking that the Municipal Code, the social contract, be honored by all living in Brownsville. As Council knows, due to the UGB restrictions, we cannot go out and annex land so it is more important than ever to protect what we have to keep Brownsville growing and lively.

In regards to the abatement at 382 Kirk, Staff set a nuisance abatement in place in April 2013. In a conversation with Ms. Garrison, she stated that she would be moving the freezer to the back porch by June 2014. Staff granted her this extension, but no progress has been made. Ms. Garrison is now asking for another extension of 90 days to move the



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freezer. She would also like to install a sink outside to create an outside canning kitchen at the end of the west driveway. Staff has followed the code, and done due process in this matter. Councilor Chambers commented that she would like to deny the extension – it has been 18 months with no progress, and frankly, the extension requests may never end. *Councilor Cole made a motion to deny the extension request. Additionally, the outside kitchen request is not permitted within the current code, so it needs to be denied as well. Councilor Shepherd seconded the motion, and it was voted on and passed unanimously.* Discussion was called for. Mr. McDowell stated that he will be gone on vacation until October 6<sup>th</sup>, 2014. *Councilor Cole amended the motion to give Colleen Garrison an extension to October 6<sup>th</sup> when Mr. McDowell returns from vacation. Councilor Gerber seconded the motion, and it was voted on and passed unanimously.*

Mr. McDowell gave an update on the situation at 120 Moody Court. As Council will recall in June a couple of neighbors came forward with a complaint about feral cats in the neighborhood. Staff was able to locate a contractor to trap the feral cats humanely. An agreement has been worked up, signed by all parties, and notarized. This process is going to take a certain amount of time due to the disposition of the cats. *Councilor Cole made a motion to approve the agreement with Spay, Inc. concerning cats at 120 Moody Court. Councilor Van Sandt seconded the motion, and it was voted on and passed unanimously.* Mayor Ware called for discussion. Councilor Chambers asked if the cats will be spayed/neutered. Mr. McDowell responded that the contractor will be keeping the cats due to the hardship of trying to re-home feral cats. Mr. McDowell suggested that Council may want to take a look at legislation concerning harboring animals at a later time. Councilor Shepherd stated that when they posting these abatements and talking with residents, they had a lot of good interaction with people. There was one incident where a home owner came out and was mad, kicking the sign over. However, when they got back to the office, there was one person that was very unhappy with being posted.

### **DEPARTMENT REPORTS:**

1. **Sheriff's Report.** Sergeant Kelley was present. He stated that he had been out due to a torn rotator cuff. He has had a lot of desk time. Sergeant Kelley stated that they have hired one new deputy, Brandon Thurman, joining the south county team. They will be adding one more full-time deputy by the end of the month, and then they should be up to speed with personnel. This last weekend there was a string of car break-ins. Two persons have been arrested, and the investigation is ongoing. The WCMF went well. The LCSO call load actually went down 29% this year.
2. **Public Works.** Mr. Frink reported that there were 18 water leaks in the system this month. This could be repercussions from the cold weather from last winter. Public Works is working on several projects including finishing up the Millhouse project, installing a new water line down Willson Avenue, and installing a new 12" water main. Back flow testing happened in September. The Park Caretakers left on September 9<sup>th</sup>. Mr. Frink has also been in contact with paving companies in hopes of completing some fall paving projects. Discussion was called for. Councilor Shepherd stated that he didn't think the City should pave Hume Street, as it is not a public street. Councilor Gerber inquired about the boiler at the Rec Center. Mr. Frink replied that the boiler is not an easy fix. The boiler is about 40 years old and has a shelf life of 20 years. A new one will have to be installed at some point. At that time a sump pump will also need to go down into the





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basement as well. Councilor Cole commented that Council is very appreciative of Mr. Frink being out there taking care of our City for us.

3. **Administrator's Report.** – Mr. McDowell stated that Bob Anderson reports that there is a potential bank very interested in coming to town.

**Water Rights Update** – Mr. McDowell had a conversation with Mr. Robert Schroeder, our water rights attorney. We have asked for an administrative hold to be placed on our two significant water rights while the Oregon Supreme Court deals with an appeal involving the City of Cottage Grove. It may take up to two years for this process to be completed. GR 12 redevelopment will not be affected, and that project is moving full steam ahead.

Boldt, Carlisle, Smith were in the week of September 8<sup>th</sup> to begin the annual audit process. Staff has followed up with questions and details needed for their fieldwork. Staff anticipates the audit may not be completed until early next year.

The Millhouse project is nearing completion. The project cost is \$175,496.35, with \$9,253.00 being held in escrow for final project completion details. Mr. McDowell reminded Council that we have inherited a lot of problems with infrastructure throughout town. In these cases we fix as many problems as we can due to financial restraints.

Swap Meet MOU was not upheld by Laura Meckle. This is the third time that we have had problems with Ms. Meckle and MOU compliance. Mr. McDowell told Mr. Morrison, Chamber president, that he would not be recommending any more agreements be executed with Ms. Meckle. The Eugene Kennel Club event went well. The Tour DaVita event that came through town was a big success. The organization was able to raise over \$1 million in Oregon, and it is pretty cool to be a part of that.

Eric Stalford has submitted a letter indicating his intent to resign from the upcoming Council election, citing his work schedule as the reason.

The library project is going well; it appears to be right on schedule. The Grand Opening and Ribbon Cutting Ceremony are scheduled for October 3<sup>rd</sup> at 10:30 a.m.

On the weapons discharge policy, staff has been unable to make contact with the one applicant, but there has been no more shooting at that location. He might have read in the paper that Council had denied his request, or he may have contacted his insurance company, and gotten a warning from them. Mr. McDowell still intends to consult with LCSO to establish some standards and provisions for this policy.

Mr. McDowell reminded Council that annual clean-up day is October 4<sup>th</sup>, and the Household Hazardous Waste day is October 11<sup>th</sup>. The HHW materials will need to be taken to the Sweet Home Transfer facility.

One of the Council goals, the Emergency Preparedness Committee, has not been organized as of yet as Staff has not had the time to devote to this area. An alternative idea might be to form a 501(c)3 group to handle this important committee. Also, Staff has made "Come to Council" cards to give out to



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customers and community members that have questions or concerns that Council needs to address.

4. Library Report. No comments.
5. Court Report. No comments.
6. Council Comments. Councilor Chambers addressed the cat issue. She said that so far the City has spent over \$3,000. She feels that there is a need to form a committee to address the issue. Cats are getting dumped all over town. Councilor Chambers will meet with Mr. McDowell, do some initial research, and bring a report back to Council in October.
7. Citizen Comments. Joni Nelson addressed Council and thanked them for handling a tricky issue with grace, kindness, and wisdom.

### LEGISLATIVE:

1. O 748: Public Works Standards, Accessory Structures, & Fences (Draft). Mr. McDowell informed Council that they will find a draft Ordinance presented for a Title 15 Amendment. Ms. Coleman and Mr. McDowell have talked to the Department of Land and Conservation's Ed Moore. This proposal is a draft only. Please contact Staff with any inquires or changes you would like to make before the next meeting. The first reading will happen in October, the second reading in November, and it will take effect in December. Councilor Van Sandt has several questions about it; Councilor Cole thought on her first read that it looked good.
2. Arbor Day Proclamation. Mayor Ware proclaimed October 18<sup>th</sup>, 2014 as Arbor Day for this year. Ms. Coleman stated that at the last Park Board meeting the group decided to do something different this year to honor Arbor Day. They will get the local community and schools involved in participating in a collage, poster, or poetry collaboration. Park Board is planning on doing a tree search in the area. They are still playing with ideas, but it could be a mapped out tree walk or drive. Ms. Coleman stated that the City does not necessarily have to plant a tree for Arbor Day, just has to have some sort of celebration. Park Board is not opposed to also perhaps planting a tree this Fall. Councilor Gerber commented that this idea reminds her of when the City was trying to become a recognized Tree City, and that it was a very fun thing.

### ACTION ITEMS:

1. Town Song Proposal. Kathleen Swayze informed Council that this song was written by Ken Richter. She asks that Council table this item until next month when she hopes they can pull off a live presentation of the song. She stated that this song encapsulates Brownsville's kindness and quirkiness.
2. Appoint Library Advisory Board Member. McDowell informed Council that there was only one applicant for the Library Advisory Board – Theresa Wilhelm. *Councilor Cole made a motion to appoint Theresa Wilhelm to this Board. Councilor Van Sandt seconded the motion and it passed unanimously.*



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3. **Park Board: Street Tree Plan.** McDowell informed Council that Park Board would like to make a recommendation for a new street tree plan on Spaulding Avenue. It has taken Park Board about 5 years to generate this plan for Council. The current trees have been past their useful life for some time now. These new planter boxes would incorporate plant life that is lower in height. Business owners would like to still be able to use their sandwich boards on the sidewalks. The proposal is for 5 planters. There is some sheeting and some plastic inserts that will help preserve the planters. Councilor Van Sandt would like to know what the cost of the boxes would be and also what the maintenance costs would be. Ms. Coleman responded that they are still in the planning stages on some of these items. Councilor Chambers asked about wheelchair accessibility. Councilor Gerber thinks that Council should hear more details before making this decision.

### **DISCUSSION ITEMS:**

1. **Bi-Mart Willamette Country Music Festival.** McDowell informed Council that Linn County recently sent out an agenda to pass changes to the Outdoor Assembly Code. If the Code is changed to what was proposed in March, it would basically prevent the BWCMF Festival in Linn County. There is another hearing for the Festival tomorrow morning at 9:30 a.m. Hopefully, the 2015 & 2016 events will be approved at that hearing.
2. **Fourth of July Event.** Tabled at this time.
3. **SDC Fees.** Council wanted to take a look at restructuring these fees for the future to promote growth and development. There are a couple of problems – planning a water plant in 2022 which will be a \$4 million project. The costs for the study alone for this project will range from \$50,000 - \$60,000. Any changes to the methodology would more than likely result in higher SDC's. McDowell will report back in October.
4. **Candidate Forum.** Mr. McDowell informed Council that the Chamber will be holding a candidate forum event on 10/14/2014 here in Council Chambers at 7:00 p.m. Refreshments will be served, and folks should have an opportunity to ask questions of the candidates.
5. **Sweet Home Economic Development Group.** Mr. McDowell and John Morrison had planned on talking with this group. It has not transpired yet. Indefinite hold for now.
6. **June Financials.** No questions or concerns.

**CITIZEN COMMENT:** Allen Buzzard addressed his next question to City Attorney Sommers asking if we were going to bankrupt the City treasury by fighting the medical marijuana litigation. Ms. Sommers replied that she could only give advice to the City, and secondly, she would have to do the research to answer that question. Mr. Buzzard said that he is afraid of the demeanor of the Simpsons and is afraid that they may proceed down the litigation path.



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**COUNCIL COMMENTS:** Councilor Van Sandt responded that the whole Council is concerned with the issue of the City Treasury and the possible upcoming litigation.

**EXECUTIVE SESSION:** The Council adjourned to Executive Session at 9:24 p.m. pursuant to ORS 192.660 Section (e).

Mayor Ware & Council returned to Regular Session at 9:28 p.m.

Council Gerber made a motion to appoint Councilor Boyanovsky and Councilor Shepherd to assist Staff, including Administrative Assistant Elizabeth Coleman, with easement negotiations. The motion was seconded by Councilor Cole and approved unanimously.

**ADJOURNMENT:** Councilor Shepherd moved to adjourn. Councilor Boyanovsky seconded the motion, and it passed unanimously. The meeting was adjourned at 9:29 p.m.

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City Administrator S. Scott McDowell

Mayor Don Ware



# City Administrator Report

October 28<sup>th</sup>, 2014

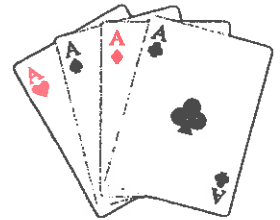
**From:** S. Scott McDowell  
**To:** Mayor & Council  
**Re:** General Business

**Reminder:** I have added new section headings in an effort to assist you in preparing for the upcoming meeting. Please refer to the centered, bold sections for information contained under each of those headings. The most important section is the first one 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 that it is part of Council Goals that are on the Council room wall or in the City budget.



The art of being wise is the art of knowing what to overlook."

– William James, Philosopher



"Life is not a matter of holding good cards, but of playing a poor hand well."

– Robert Louis Stevenson, Scottish Author

"Discussion is an exchange of knowledge; argument an exchange of ignorance."

– Robert Quillen, Journalist

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



**Song Performance of 'Livin' in Brownsville'** – Kathleen Swayze and company will be performing the song that is being proposed for adoption as the town song. See Resolution 2014.18.

**Review Council Goals** – The Council goals have been updated through the first week of October. Staff will give an overview of what has been accomplished to date and discuss what still needs to be addressed. Hopefully, we can have some good discussion about the remainder of the year. Council will schedule a goal setting session at the next Council meeting to begin planning for 2015-2016.

**O 748: Public Works Standards, Accessory Structures & Fences (First Reading)** – The Planning Commission met on October 20<sup>th</sup> to discuss the proposed changes to Title 15 of the Brownsville Municipal Code. Staff will review the suggestions discussed at that meeting. Overall, the Planning Commission is very pleased to see these changes finally happen. Staff would like to have all questions, comments or other suggestions by the end of the first week of November.

*From 09.23.2014:* Staff filed the appropriate paperwork with the Department of Land Conservation & Development. The City's representative reviewed the information and then confirmed that the City did not need to file any Measure 56 paperwork for the changes being considered.



Council has discussed for some time the adoption of this ordinance. Staff was given direction at the last meeting to provide language for Council review. The Planning Commission will also review the language concurrently with Council and make a recommendation for the October Council meeting regarding any edits, changes or other general concerns.

Next month, will be the actual first reading of this legislation.

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

- ^ Review all of the information.
- ^ Ask questions, discuss and make any changes.

**O 750: Imposing a Tax on Marijuana** (*First & Second Reading*) – City Attorney Lauren Sommers will address this issue during the work session. Basically, cities all across the State of Oregon are passing ordinances to impose taxes on marijuana. The State of Oregon is attempting to capture all tax revenue for State use. Some cities feel that by passing this legislation, there could be the possibility of this tax being grandfathered in.

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

Council is being asked to do a first and second reading of this ordinance in order to be able to pass this ordinance before Measure 91 becomes law. Council would have to vote unanimously to legally complete a first and second reading at the same meeting; and thirty (30) days the ordinance would become law.

Discussing the marijuana tax does seem contrary to the decisions Council has made over the last several months. The concern is simply that the City should not miss out on a taxing opportunity. If the State should decide to pre-empt local control, then the point is moot.

I have serious reservations about the State allowing cities to tax marijuana. Measure 91 is fairly clear about the State's plan to tax marijuana for State use only, but this is the only choice cities have to gain taxing authority.



The marijuana tax rate is set by resolution which is why you will see Resolution 2014.20 included in the packet as well.

**R 2014.18: Adopting a Town Song** – Mayor Ware proposed this idea at last Council meeting for consideration. Passing this resolution would adopt 'Livin in Brownsville' as the town song. The City would frame the resolution and present it to Mr. Ken Richter.

**R 2014.19: Setting System Development Charges** – Council passed Resolution 719 on October 22<sup>nd</sup>, 2013 as part of an effort to study possible revision of System Development Charges. The outcome of the research is briefly discussed in the body of Resolution 2014.19. Basically, the City is reverting to the 2006 SDC rates that were being administered prior to the above referenced resolution (R 719). Any attempt to change the methodology would result in higher SDC rates which is opposite to Council's intention.



**R 2014.20: Adopting Marijuana Tax Rates** - This resolution is companion to Ordinance 750 and would set the marijuana tax rate.

**Nealon's Proclamation** – Mayor Ware is recognizing the significant reinvestment Mr. and Mrs. Nealon have recently made in Brownsville. All Councilors will be asked to sign the document. The City will have the document framed and Mayor Ware will present it to the Nealons at their business.

**Official Appointments (Various Committees)** – Annually Staff reviews all of the terms being served by appointed officials. Below is a list of appointed officials requesting reappointment:

- Parks & Open Space Advisory Board (*3 year term*) – Rick Dominguez  
Brandi Simon
- Planning Commission (*4 year term*) – Don Andrews
- Budget (*3 year term*) – Don Andrews  
Marilyn Grimes  
Rick Dominguez
- Historic Review Board (*3 year term*) – Joni Nelson

Ms. Joni Nelson would like to respectfully request that Council advertiser position. She is willing to continue to serve, she feels it is important to give others an opportunity to serve.

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

Council is being asked to reappoint all of the above referenced individuals except for Joni Nelson. Staff will advertise for an Historic Review Board member as per Ms. Nelson's request. Should the City not be able to find a willing volunteer, Council may reappoint Ms. Nelson at the next meeting.



**Satellite Providers & Local Coverage Request** – Background information is included in the packet for your review.



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

Council may ask me to go forth and send letters to the appropriate representatives in an effort to have local channels provided as part of the packages offered by television satellite providers.

**Bi-Mart Willamette Country Music Festival (BWCMF)** – Linn County held the first reading on October 7<sup>th</sup> to discuss wide scale changes to the Outdoor Assembly Code. Lawyers for the Festival outlined several problematic areas with the commissioners. The outcome was to convene a workgroup session which was held on October 14<sup>th</sup>, 2014. All parties felt that the workgroup session was very productive although more time was needed to discuss a few other critical areas. Linn County had a second reading on October 20<sup>th</sup>. The Festival was successful in getting the reading tabled until November 12<sup>th</sup>. Ms. Hankins reported that the County Commissioners were not interested in another workgroup session, but they did allow the Festival to contact the County Attorney directly. The attitude of the Commissioners is that they are going to change the Code and not everyone is going to like the changes. The City will have to monitor these developments very closely in order to rally community support if needed.



*From 09.23.2014:* The debrief with public safety officials went very well. Overall, everyone felt that traffic logistics greatly improved from 2013. It was also clear that calls received by the Sheriff's Office were significantly reduced again this year. Mayor Ware, Councilor Shepherd & I took a backstage tour with Anne Hankins and Don Leber to witness the significant changes and improvements that have been made over the course of the last several years. The event truly is top-notch.



I have provided attendance reports from 2013 & 2014 as has been provided to the Linn County Commissioners by BWCMF. Ms. Hankins indicated there's been a fair amount of discussion regarding the validity of these numbers. She feels it may be an issue for the hearing which is scheduled for Wednesday, September 24<sup>th</sup>, 2014 at the Linn County Courthouse, 9:30 a.m. The City & the Chamber encourage attendance at this important hearing for both the 2015 and 2016 events.

**Emergency Contractor Resolution Concept** – The idea is to create a resolution as follows:

- Level I      A business that has products and services the City may need in the event of an emergency. (*Examples include Northern Rock Supply, Curtis Excavating, Carlson's Hardware and so on.*)
- Level II     An organization that has space that could be used for mass gatherings. (*Examples include area churches, the Rec Center, the Central Linn School District and so on.*)
- Level III    Individuals who have particular skills that could provide service in the event of an emergency. (*Examples include Bill Sattler, Chad Hein, Alan Klinkebiel, Gary Shepherd, Todd Karo and so on.*)

The City would maintain a record of the businesses, organizations and individuals and the resolution would cover the details of how compensation would be made, how items were to be procured, and all the other requirements of FEMA. By doing this, it would simplify the process considerably.

**Recreational Vehicles** – I will provide an oral report regarding recent developments concerning this topic.

**2015 Council Meeting Schedule** – Staff is planning to take a recess in August of 2015 as was done in 2014. Council is being asked to weigh in.

**382 Kirk Avenue Outcome** – The property owner has basically told the City to find her all we want. She does not plan on complying with the ordinance. Since October 6<sup>th</sup>, at a rate of \$25 per day, the property has amassed a total of \$575.00. Staff plans on forwarding a letter to the property owner to notify her of these charges.

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

Council can cause an administrative warrant to be issued for this property and have the violation removed from the premises.





I think the best course of action is to continue to forward a letter after each Council meeting as to the amount the fines have totaled along with the offer to provide help to move the freezer. Council could then address taking another course of action at the first of the year.



**Candidates Forum Outcome** – The Brownsville Chamber of Commerce hosted a very lively discussion with the candidates running for office at the upcoming November 4<sup>th</sup> Election. The City appreciates the chamber’s active role in civic matters. The City is also appreciative of all of the candidates seeking office.

**Water Rights Update** – Michael Mattick, Water Master, stopped in to discuss some possibilities. City Engineer Jon Erwin is currently researching the implications. I hope to have more information at for the meeting.

**Worker's Compensation Discussion** – Administrative Assistant Elizabeth Coleman and I worked closely with CIS Staff to submit the City’s numbers for last fiscal year. Staff is working closely together to make this process easier in the future.

**Census Outcome** – CDBG/HUD numbers changed for Brownsville. The Feds changed definitions and thresholds recently. We will have to do a study to be eligible for certain kinds of funding due to these changes.

**Nuisance Abatement Appeals** – Everyone posted complied with the City’s requests except for 382 Kirk Avenue.

**Completed: Library Flooring Project** – Thomas Kay Flooring did a fantastic job on this project. Librarian Sherri Lemhouse is still working out the details on a few issues. The response to the new flooring has been very positive. The *Friends of the Library* did pay \$3,300 for the ‘furniture moving’ portion of this contract. The City did forward a thank you card in appreciation of their continued partnership.

**Completed: Millhouse Sanitary Sewer Project** – Wildish Construction finished the work on the three manholes that needed attention and passed the required testing. The City has cut the final check for this project.

**Weapons Discharge Policy** – Staff met with Sergeant Brad Kelley to develop protocol for permits. The County may have a concern with the liability that can come from signing off on such a permit. We reviewed the Christian Church permit. The permit seems to be a good place to shoot based on the land berm behind the targets. Staff would still like to develop some standards for Council review in the future.

*From 09.23.2014:* Staff is still determining standards for backdrops for shooting in close proximity to neighbors. The City is working with CIS Risk Management, the City’s insurance personnel and the Linn County Sheriff’s Office to get a solution for Council to consider. Permits that have been filed have not been finalized until these determinations are made.



*From 07.22.2014:* The City received three archery permits which have brought some challenges on exactly how to permit certain situations. One applicant has permission from all of the surrounding



property owners and is actually shooting from a neighbor's property toward his target, all of which is on the public right-of-way. Staff cannot allow weapons to be discharged on public property. However, the conversation needs to be had with Council over the liability issues and/or the possibility of creating some type of an agreement that would allow this practice. I hope to have more information at the meeting as I'm still waiting on information from our insurance agent and Dunny Sorenson from CIS.

**Active: City Hall Phase I** – Mr. Sedlar is finishing up the concrete caps. Public Works will be making time for this project this Winter.



*From 07.22.2014:* The City recently retained the services of Mr. Steven Sedlar to help with the capstones for this project. Later this Fall, Staff will begin Phase II of the project which includes the installation of the grass.

**Central Linn Recreation Association Proposal** – Staff has worked well together on this project. We are still "ironing out the kinks" but overall things are going as well as can be expected.

*From 07.22.2014:* CLRA signed the agreement with the City. Staff met with President George Frasier to address an emergency situation regarding a concussion policy. We still need to develop a proper strategy and timeline due to vacation schedules.

**Pending: Water Line Projects** – Surveyor is a few weeks behind, but that is not a concern yet.



*From 09.23.2014:* Staff met with City Engineer Ryan Quigley to discuss project timelines and logistics for the three waterlines listed below. The City will attempt to put those projects out to bid as a single contract in February or March 2015. Erwin Consulting will begin drawing up the plans, surveying the sites and working on the regulatory requirements for those installations.

*From 05.27.14:* Staff and the City Engineer would like to bid all three water line projects together in an effort to save money and get a better price. The three projects budgeted for FY 2014 – 2015 include the GR 12 development, the Main Street water line, and the Averill Street water line. Projects would go out for bid in early January 2015 and hopefully finish up by the end of the fiscal year.

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

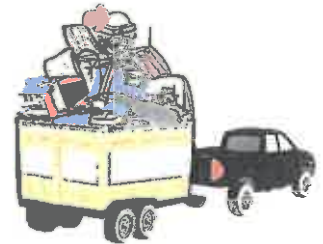
- ▶ *Linn County attempts to pass Outdoor Mass Gathering ordinance. Commissioner's decide to allow a workgroup session to discuss the Festival's concerns with the proposed changes.*
- ▶ *John Fox, local WW II veteran, was chosen for an Honor Flight.*
- ▶ *The Library had a Grand Reopening to celebrate the flooring project.*
- ▶ *The City met with the Linn County Sheriff regarding the enforcement of the moratorium.*
- ▶ *Erwin Engineering reported that the surveyor is delayed; we are a month out on drawings for our waterline projects.*



- ▶ *Millhouse Sanitary Sewer project passed testing and is complete.*
- ▶ *The City successfully filed Worker's Compensation numbers with CIS.*
- ▶ *The City received an extension on water rights from OWRD.*
- ▶ *The City received an extension from USDA for the annual audit reporting.*
- ▶ *Staff provided information to BCS as they continue to work on the 2013-2014 audit.*
- ▶ *Public Works finished the waterline project at the reservoir/School Hill.*
- ▶ *Brownsville Chamber hosted the Candidates Forum.*

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

**Complete: City-Wide Clean Up** – Josh Metcalf will be on hand for the November meeting to discuss results with Council along with the outcome of the Household Hazardous Waste Day held October 11<sup>th</sup>, 2014 at the Sweet Home Transfer Station.



**Garbage Language** – Below is the City of Albany's language that may be useful:

**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.

**Active: McFarland Cascade Update** – McFarland is coming along nicely with their project.

**Active: Economic Development Process** – Council will continue to work on these issues.

*From 05.27.14:* Staff had an opportunity to explain some of the finer points of Urban Growth Boundary expansions and history and the State of Oregon at the last Chamber of Commerce meeting. Hopefully, this will lead to better understanding of the requirements that must be met for such a procedure.

**Active: Main Street Water Line Estimate** – Erwin Consulting is currently working on the engineering this project.

*From 05.27.14:* The costs have been budgeted for FY 2014-2015.

**Active: GR-12 Update** – Erwin Consulting is currently working on the engineering for this project.

*From 05.27.14:* The costs, as approved by Council at last meeting, have been budgeted for FY 2014-2015.



**Active/Pending: Water Rights** – Oregon Water Resources Department extended the City's water rights as requested by the City's Attorney, Schroeder Law.

*From 09.23.2014:* City Engineer Jon Erwin, Public Works Superintendent Karl Frink and I had a conference call with Schroder Law representatives Mr. Wyatt Rolfe and Mr. Brian Sheets to curtailment and recent implications regarding a ruling against the City of Cottage Grove. Implications of that case are far reaching and the case has been sent to the Oregon Supreme Court. I will discuss some of the details at the meeting. The outcome of the phone call was that the City has asked Schroeder Law to request that Oregon Water Resources Department (OWRD) place on a hold on two of the City's primary water rights. Surface water right S – 47733 and groundwater right G – 13221 until the Oregon Supreme Court rules on the Cottage Grove case.

Mr. Rolfe confirmed the City's ability to develop the GR-12 redevelopment effort. The City has no implications for that right in regards to the recent Cottage Grove ruling.

**Active: Visit Linn Coalition (VLC) Update** – VLC has been working on redeveloping their goals. Administrative Assistant Jannea Deaver has been attending these meetings also.



*From 06.24.2014 meeting:* After five years of trying, Staff met with officials from the Oregon Jamboree and the Willamette Country Music Festival to discuss possibilities of working together and moving toward some kind of understanding. Chamber President John Morrison and Ford Foundation's Jo Ann McQueary were also at the meeting as partners.

**Pending: John Voight & Sage Street** – *From 05.27.14:* Staff spent considerable time and resources investigating possibilities for Mr. Voight to improve Sage Street. Mr. Voight's lawyer has contacted the City and discussed the issues involved in coming to an agreement as well. Currently, Staff is waiting to hear back from Mr. Voight's lawyer. Staff expressed several developmental concerns based on topography and state flood regulations. The City also has a concern about the future maintenance of the roadway and possible future implications for property owners.

**Pending: Central Linn School Meetings** – The City is a drop off location for the District's latest survey.

**Pending: Recreational Vehicles & Travel/Storage Trailers** – *From 06.24.2014 meeting:* Please refer to the report entitled, "2014 Proposed Changes (First Installment)" that is included as part of the packet for more details. Staff will also be providing a brief presentation regarding this and other zoning issues as have been previously discussed at the Council Retreat on April 19<sup>th</sup>.

**Pending: Historic Registry & Downtown Buildings Update** – *From 01.29.2014 meeting:* Kuri Gill & Ian Johnson from the State Historic Preservation Office (SHPO) gave a very informative presentation to many members of the Chamber earlier this month. I have enclosed the minutes for your review. I will also expound on some of the details. Councilor Cole and Joni Nelson are hoping to work through the Chamber to do a follow-up on the formation of an historic district. I have received a few calls from property owners who are very concerned about the possible implications.



*From previous reports:* Mrs. Joni Nelson and I had a conversation about this topic on November 1<sup>st</sup>, 2013. Joni wants this to be a grass roots effort through the Chamber of Commerce. She told me that she does not want to come to Council. She indicated that she has talked with Sharon McCoy, John Morrison and Aimee Addison who all support the idea. I asked her if she has talked to Victor Carlson, Steve LaCoste, Joe Ervin, Joe DeZurney, Bob Anderson, Kelly Corbett and Al Cieri who actually own most of the buildings as was discussed at Council meeting. She said that she has not just yet, but is preparing to have a representative of the State come to the January Chamber of Commerce meeting to discuss the program and the process. Joni wants everyone to understand the benefits of adopting such a program which could include additional signage on I-5.

**Pending: Canal Company Update** – Several things have transpired that I will report at Council meeting.

*From 05.27.14:* The City continues to be willing to work toward a quasi-governmental agreement that may assist the Canal Company by better serving those who benefit from the canal.

*From 04.22.2014:* Councilor Cole will provide a brief update.

*From last meeting:* The City will be meeting with Canal Company leadership later this year to determine a plan for action.

*From last meeting:* The annual meeting of the Brownsville Canal Company happened on May 6<sup>th</sup>, 2013. I will have an oral report for Council.

*From a past meeting:* Canal Company Leadership is still working on legal representation, official tax status and setting a date for their annual meeting.

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

### **PAST MEETINGS – Memory Information**



**From 9.23.2014: Ordinance 749: General Provision Penalty (Emergency)** – Mr. & Mrs. Simpson decided to open their business at 333 N. Main Street on August 31<sup>st</sup>, 2014. The City determined that this is a violation of the moratorium. After much research and discussion with the City attorney, a letter was sent to Mr. & Mrs. Simpson asking them to honor the moratorium and an e-mail was sent to Linn County Sheriff Bruce Riley about the City's position regarding the adopted moratoria ordinance. I have included those letters for your review.

#### **Quick Timeline:**

- August 28<sup>th</sup>, 2014 - Albany Democrat-Herald article discussing the Simpson's plans.
- August 31<sup>st</sup>, 2014 - Green Cross Opened.
- September 2<sup>nd</sup>, 2014 - Reviewed the situation with City Attorney Lauren Sommers.



Sommers contacted the Oregon Health Authority (OHA) regarding the activity. *(Included in the Packet.)*

McDowell contacted Sheriff Riley about the situation.

September 3<sup>rd</sup>, 2014 -

*The Times* article discussing the Simpson's plans.

Tom Burns of the OHA was to forward a letter regarding the Oregon Administrative Rules to the Simpsons.

September 4<sup>th</sup>, 2014 -

The City requests additional language to be prepared by the City Attorney as requested by Sheriff Riley. *(Included in the Packet as O 749.)*

September 14<sup>th</sup>, 2014-

Green Cross opened.

September 17<sup>th</sup>, 2014-

City letter to the Simpson's *(Included in the Packet.)*  
City letter to the Sheriff. *(Included in the Packet.)*

September 18<sup>th</sup>, 2014 -

Response e-mail from the Simpsons. *(Included in the Packet.)*

The City acted in good faith when the moratoria ordinance and did not include a penalty section that is being requested by Sheriff Riley. The Brownsville Municipal Code should have a General Penalty provision which it currently does not have. Adopting a General Provision penalty will allow the City to properly enforce all other ordinances, resolutions and actions of Council that currently do not have an expressly stated penalty section.

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

Options #1 & #3 could be exercised if Council chooses to enforce the violation of the moratorium. Option #1 also strengthens the Brownsville Municipal Code in future regarding other violations of Council or City authority. Option #2 would lift the moratorium and allow the Simpson's to operate their business. If Council should decide to proceed in this fashion, the Business Registration ordinance would need to be modified as well. Option #4 hold the current course and choose not to enforce the moratorium.

1. Adopt a General Penalty provision (O 749) to the Brownsville Municipal Code to more adequately handle violations of the Code including the moratoria violation.
2. Lift the Moratorium.
3. Urge the Sheriff to enforce the moratorium without adopting the General Penalty provision.
4. Do nothing.

I would strongly recommend writing State representatives to express your general concerns about being put in these kinds of awkward positions with constituents due to actions taken by the State legislature. Local authority should not be abridged by the State on matters of local control.



Yes, this is the same logic that states who have adopted legalization of recreational marijuana are using to strengthen their position against Federal law; 'States should have control.' In our case we are suggesting that cities should have local control.

From 07.22.2014:

**Moody Court & Unenumerated Nuisance** – The quickest way to handle the situation on Moody Court as reported by Heather Dillon & Shannon Cason at the last meeting, is to use the Brownsville Municipal Code below:

**8.30.140 Unenumerated nuisances.**

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

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



**Report**

The conditions at 120 Moody Court are a public health and welfare nuisance because:

- ▶ About forty (40) feral cats are frequenting the neighborhood regularly due to the property owner at 120 Moody Court putting out large quantities of food.
- ▶ The neighborhood smells of cat feces.
- ▶ Neighbors are concerned about the health of the cats calling the cats condition inhumane; cats appear to have mange.
- ▶ Neighbors have accidentally killed cats because they didn't see them or the cats did not move.
- ▶ Mr. Hinds friend described some of the cats as "zombie" cats.
- ▶ Neighbors complain about cats scratching paint on their vehicles.
- ▶ Neighbors expend money treating their yards for flea infestations.
- ▶ Mrs. Dillon reported that her child had to taken to the emergency room because a flea bite had gotten infected.
- ▶ Mrs. Reister is concerned about all the small children who play in the cul-de-sac. The children pet the cats, forget to wash their hands and then get sick due to the unhealthy condition of the cats.
- ▶ Mrs. Reister also reported that on two occasions someone removed the cats from the neighborhood, but Mr. Gardner continues to make food available starting the cycle all over again.
- ▶ Feral cats kill birds and other small animals in the area.
- ▶ Feral cats can be carriers of incurable diseases such as toxoplasmosis and rabies.
- ▶ Feral cats can be a threat to pets.

\*\* Staff will provide pictures of the neighborhood at the meeting.



Should Council agree & deem this a public nuisance, then:

***Procedure***

1. Council must make a motion deeming this property a nuisance.
2. Staff posts the property under the procedure for nuisance.
3. The property owner has the right to appeal to Council.
4. Council & Staff may have to hire someone to safely remove the cats from the neighborhood at the City's cost.

**Water System & Wells Policy** – Council will be asked to develop policy around this issue at a later date. Staff is still attempting to gather information and determine all of the possible courses of action for Council's consideration.

**Fourth of July Event (Tabled)** – Staff will provide additional information at an upcoming meeting.

*From 9.23.2014:* Staff and Council discussed adding more portable toilets, working with Sweet Home Sanitation to provide trash cans, adding additional lights and possibly working on a transportation plan for this event. Council wanted to continue this discussion at this meeting.

*From 07.22.2014:* Public Works Superintendent Karl Frink and I are hoping to discuss a few operational concerns regarding this event with Council; this year was by far the largest turnout in recent memory which led to a discussion about better ways to accommodate the additional visitors. We would like to discuss additional lighting, additional portable toilets, a new parking concept and traffic flow.

**Park Board: Street Tree Plan (Tabled)** – Staff will provide additional information at an upcoming meeting.

**Sweet Home Economic Development Group** – Chamber President Jon Morrison and I were put on hold in our efforts to discuss partnership options with this group.

**Pending: Darrin Lane & Kirk Avenue** – *From last meeting:* I had an extensive conversation with Linn County Road Master Darrin Lane recently. Mr. Lane gave a brief history of the Kirk Avenue concept, to which I have added a little research, which is as follows:

*March 5<sup>th</sup>, 2001:* Kirk Avenue is initially discussed at Council meeting with Mr. Lane and the County Commissioners. County must determine how to a City street a County road in order to expend funds for the proposed improvements.

*Spring 2002:* The County indicates to the City that it is possible for the County to deem Kirk Avenue a County interest based on McKercher Road. The City starts planning for drainage projects.

*October 2006:* The City completes the Galbraith Street storm sewer project.







*February 28<sup>th</sup>, 2008:* Linn County Road Master Darrin Lane discusses the logistics of Kirk Avenue with Council. Survey crews are sent to town shortly thereafter to work on a rough design. There are several rules and requirements and multiple property issues that are cause for concern for any proposed construction project.

Meanwhile, County Staff is working on developing the Gateway project in conjunction with the Oregon Department of Transportation. City Staff is focusing on the multimillion dollar Wastewater project. The Economy starts falling apart. The Veterans Hospital is announced in Lebanon. Linn County Commissioners move a whopping \$19,000,000 out of the Road Department's funds to assist with the development. The Commissioners have also taken a \$2,000,000 from the Road Department to assist the Sheriff's Office funding issues. The Road Department is not as financially stable as it was in 2001 or even 2007 for that matter.

*2009-2010:* Several update conversations.

*January 2011:* Council asks for an update. The County indicates that they will not start a new project until the Gateway project is complete.

*June 2012:* Council decides to scale back the project to an overlay.

*June 22<sup>nd</sup>, 2012:* Staff meets with Mr. Lane who felt that the first block from Main to Averill could be done with curbs and sidewalks. The rest of Kirk Avenue could be an overlay. Mr. Lane projected the cost to be between 600,000 & \$800,000. Lane indicated that in the next year or two the County would probably be able to get this project. Lane also indicated at that time that the City would not need to financially participate, if we could be patient.

Mr. Lane indicated that his Department is currently overloaded with Federal bridge projects. The County is still interested in helping the City but timing is difficult.

#### Outcome

If the City is in a hurry to get the project completed, they can set up a local improvements district (LID) and assess the costs to the affected properties or the City can wait until it is budgeted in Linn County's budget.

What does Council want to see on Kirk Avenue? Overlay or reconstruction?

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

*From a past meeting:* The Council recently reported that they have enough money for a sign in Pioneer Park. If the City is willing to install the sign, they are willing to have it constructed. The City should be receiving a proof of what the sign looks like in the near future.

**WNHS Update** – *From 05.27.14:* Administrative Assistant Jannea Deaver will be attending some of these meetings with any future. Currently the board is considering language and rules for manufactured housing.

*From past meetings:* The Board recently passed a few changes to enable WNHS greater flexibility in helping clients. The City also features their information downstairs in the foyer and on the website. The group is asking Linn County to be the sponsor of the new grant application. I've enclosed some information for your review from the meeting last week. They would like to get the word out on a few programs that will help stave off foreclosures. Please refer citizens to the following websites for more information:

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



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

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "Sm".

S. Scott McDowell



## Public Works Report October 22<sup>nd</sup>, 2014

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 months of October.
- *Distribution System* – One water leak this month. The crew has completed installing the new 12 inch water main from the gate at School Avenue to the reservoirs. The crew is currently working on restoring any disturbed areas and re-graveling the roadway. We are currently awaiting results from water tests conducted on the new line to ensure it is clean and sanitary before putting it into service.
- *Cross Connection Program*- I continue to work on the annual inspections of the water system to identify and correct any unsafe condition that may exist.
- *Water Treatment Plant* –All of the parts needed to replace the infiltration gallery pumps have arrived. We will be installing the new pumps upon completion of the 12 inch water main project. We will be scraping filters 1 and 3 in late October.
- *Misc.* – We have received notice from the Drinking Water program that our water system qualifies for reduced sampling to Stage 2 Disinfection By-Products. Our sampling has been reduced from quarterly to one annual sample.

### Sewer:

- *North Lagoons* – Roads have been graded. The generator will have its annual service and load test to ensure it is operating correctly.
- *South Lagoons*- The generator will have its annual service and load test to ensure the generator it is operating correctly.
- *Collection System*- Nothing to report this month.
- *Misc.* – Plans have been reviewed and approved for an extension to the Bishop Royale. Construction is expected to begin soon.

### Streets:

- *Mowing/Tree Maintenance* – Trees are trimmed on an as-needed basis. All of the right-of-ways are mowed and maintained as needed.
- *Asphalt/ Gravel Road Maintenance* – All gravel streets will be graded in November. We have received 3 estimates for our paving projects. Scott and I will review the estimates for accuracy and determine the best estimate.
- *Storm Drainage* – Drainage ditch maintenance continues as needed.
- *Misc.* – Nothing further to report

### Parks:

- *Pioneer Park* –The Park is mowed as needed and facilities cleaned daily. The garbage cans are checked several times a week and emptied as needed. We will be closing Pioneer Park Friday, October 31<sup>st</sup>.
- *Blakely Park* – Nothing to report at this time.
- *Kirk's Ferry Park* – The drinking fountain for this facility has arrived and will be installed soon.

#### **Cemetery:**

- *Grounds* – The grass has been mowed and trimmed as needed.

#### **Library:**

- *Grounds*- This facility is mowed and trimmed weekly.
- *Buildings*- A few small plumbing repairs this month.

#### **Downtown**

- *Restrooms* – This facility is cleaned every Friday, or more often needed.
- *Garbage cans* – Down town garbage cans are emptied every Friday, or more frequently as noticed.
- *Parking Lot* – Nothing to report this month.
- *Misc.* – Nothing additional to report this month.

#### **City Hall:**

- *Buildings*- The broken toilet pressure tank has been replaced.
- *Grounds* – The grounds are mowed weekly and areas trimmed as needed. The landscape project in front of City Hall is under construction.
- *Community Center*- Nothing to report at this time.

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

- *Grounds*- The grounds are maintained as needed.
- *Buildings*- We are awaiting an estimate to have the stage lights replaced. We are working on having the gym drinking fountain replaced, as well as the hot water heater.

#### **Public Works:**

- *Grounds*- The grounds are maintained as needed.
- *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. The public works computer failed due to corrupt hardware. The files from the hard drive have been recovered and are in the process of reorganizing for easy access.



# LINN COUNTY SHERIFF'S OFFICE

**Bruce W. Riley, Sheriff**

1115 S.E. Jackson Street

Albany, OR 97322

Phone: 541-967-3950

www.linnsheriff.org

## 2014

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

**FOR THE MONTH OF:**

**September**

<b>TRAFFIC CITATIONS:</b> _____	<b>3</b>
<b>TRAFFIC WARNINGS:</b> _____	<b>6</b>
<b>TRAFFIC CRASHES:</b> _____	<b>0</b>
<b>ADULTS CITED / VIOLATIONS:</b> _____	<b>0</b>
<b>ADULTS ARRESTED:</b> _____	<b>7</b>
<b>JUVENILES CITED / VIOLATIONS:</b> _____	<b>0</b>
<b>JUVENILES ARRESTED:</b> _____	<b>0</b>
<b>COMPLAINTS/INCIDENTS INVESTIGATED:</b> _____	<b>72</b>

**TOTAL HOURS SPENT IN:                      BROWNSVILLE                      261**

**70 PERCENT COVERAGE OF TWO DEPUTIES PER MONTH= 202 HOURS**

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

**By: Sgt. Brad Kelley**

PATRL\_RPT#2 City Incident Report

CAD Call#	ENTRY DATE	ENTRY TIME	CALL DESCRIPTION	ST #	ADDRESS	CITY	DESCRIPTION
142730361	9/30/14	19:51:22	TRAFF-DUII	200	ELM ST	Brownsville	No Additional Report Necessary
142730255	9/30/14	15:11:27	VIOL CITY ORD	333	N MAIN ST	Brownsville	No Additional Report Necessary
142730107	9/30/14	8:44:38	NARCOTICS OFF	800	KIRK AV	Brownsville	Incident Report
142720236	9/29/14	12:43:36	VEH-STOLEN	500	LOCUST AV	Brownsville	No Additional Report Necessary
142700266	9/27/14	21:15:01	FIRE ARMS COMPL	234	GALBRAITH ST	Brownsville	No Additional Report Necessary
142700150	9/27/14	9:23:20	SUSP-PERSON	220	S MAIN ST	Brownsville	No Additional Report Necessary
142690446	9/26/14	23:20:25	Trf Equipment Viol	200	SPAULDING AV	Brownsville	Incident Report
142690429	9/26/14	22:04:39	THREATS	221	AVERILL ST	Brownsville	Incident Report
142680405	9/25/14	22:10:08	Trf Equipment Viol	200	N MAIN ST	Brownsville	No Additional Report Necessary
142680289	9/25/14	15:43:35	DOG COMPLAINT	125	FILBERT CT	Brownsville	WARNING - EQUIPMENT VIOLATION
142680275	9/25/14	15:20:09	DOG COMPLAINT	27917	SEVEN MILE LN	Brownsville	MDT Narrative Update
142680142	9/25/14	10:24:42	CRIM MISCHIEF	333	N MAIN ST	Brownsville	No Additional Report Necessary
142670270	9/24/14	17:10:54	SUSP-PERSON	668	CALAPOOIA AV	Brownsville	Incident Report
142660221	9/23/14	13:11:28	UNAUTHORIZED ENTRY TO MO	936	KIRK AV	Brownsville	No Additional Report Necessary
142660118	9/23/14	8:31:38	THEFT-RPT	217	W BISHOP WY	Brownsville	Incident Report
142660034	9/23/14	2:54:47	SUSP-VEHICLE	400	WILLSON AV	Brownsville	No Additional Report Necessary
142650415	9/22/14	23:40:44	SUSP-PERSON	380	KIRK AV	Brownsville	MDT Narrative Update
142650322	9/22/14	18:00:18	SEX OFFENSE		HOLLOWAY HTS	Brownsville	MDT Narrative Update
142650281	9/22/14	16:24:57	SEX OFFENSE		HOLLOWAY HTS	Brownsville	No Additional Report Necessary
142650158	9/22/14	11:31:12	UNAUTHORIZED ENTRY TO MO	420	AVERILL ST	Brownsville	Incident Report
142650100	9/22/14	9:34:00	PROP-FOUND	200	PARK AV	Brownsville	Incident Report
142640250	9/21/14	16:54:52	UNAUTHORIZED ENTRY TO MO	313	WALNUT AV	Brownsville	Incident Report
142640246	9/21/14	16:42:42	NARCOTICS OFF	118	E BLAKELY AV	Brownsville	Incident Report
142640215	9/21/14	15:07:49	UNAUTHORIZED ENTRY TO MO	333	FISHER ST	Brownsville	Incident Report
142640199	9/21/14	14:31:02	UNAUTHORIZED ENTRY TO MO	325	FISHER ST	Brownsville	Incident Report
142640191	9/21/14	14:10:11	UNAUTHORIZED ENTRY TO MO	113	WALNUT AV	Brownsville	Incident Report
142640174	9/21/14	13:18:15	NARCOTICS OFF	100	S MAIN ST	Brownsville	Incident Report
142640170	9/21/14	12:57:50	UNAUTHORIZED ENTRY TO MO	227	AVERILL ST	Brownsville	Incident Report
142640119	9/21/14	10:05:49	UNAUTHORIZED ENTRY TO MO	200	N MAIN ST	Brownsville	No Additional Report Necessary
142640090	9/21/14	8:02:09	UNAUTHORIZED ENTRY TO MO	35620	KIRK AV	Brownsville	Incident Report
142630106	9/20/14	10:17:50	UNAUTHORIZED ENTRY TO MO	182	HOLLOWAY HTS	Brownsville	Incident Report
142620425	9/19/14	23:07:05	THEFT-RPT	108	E BLAKELY AV	Brownsville	Incident Report
142620338	9/19/14	18:59:39	SUSP-PERSON	200	N MAIN ST	Brownsville	No Additional Report Necessary
142620303	9/19/14	17:28:10	TRESPASS	419	N MAIN ST	Brownsville	No Additional Report Necessary
142620237	9/19/14	14:46:31	UNAUTHORIZED ENTRY TO MO	836	KIRK AV	Brownsville	Incident Report
142620157	9/19/14	12:13:56	DOG COMPLAINT	147	GALBRAITH ST	Brownsville	No Additional Report Necessary
142610441	9/18/14	23:31:54	SUSP-PERSON	111	STANARD AV	Brownsville	No Additional Report Necessary
142610439	9/18/14	23:26:20	Trf Speed Viol	600	N MAIN ST	Brownsville	No Additional Report Necessary
142610431	9/18/14	23:03:05	TRAFF-OTHER VIOL	600	N MAIN ST	Brownsville	WARNING - SPEEDING VIOLATION
142610073	9/18/14	7:23:27	UNAUTHORIZED ENTRY TO MO	137	SPAULDING WY	Brownsville	Incident Report
142610057	9/18/14	5:31:10	BURGLARY REPORT	202	E BISHOP WY	Brownsville	No Additional Report Necessary
142600350	9/17/14	18:17:06	DOG COMPLAINT	200	N MAIN ST	Brownsville	No Additional Report Necessary

PATRL\_RPT#2 City Incident Report

CAD Call#	ENTRY DATE	ENTRY TIME	CALL DESCRIPTION	ST #	ADDRESS	CITY	DESCRIPTION
142600115	9/17/14	9:44:36	THREATS	320	KIRK AV	Brownsville	No Additional Report Necessary
142600106	9/17/14	9:27:14	WELF CHECK	333	WILLSON AV	Brownsville	No Additional Report Necessary
142590298	9/16/14	15:41:28	CIVIL STANDBY	604	CALAPOOIA AV	Brownsville	No Additional Report Necessary
142590274	9/16/14	14:49:58	INFORMATION REQUEST/REPO	353	N MAIN ST	Brownsville	No Additional Report Necessary
142580336	9/15/14	17:19:21	VIOL OF RESTR ORDER	604	CALAPOOIA AV	Brownsville	No Additional Report Necessary
142580309	9/15/14	15:57:00	SEX OFFENSE		ASH ST	Brownsville	No Additional Report Necessary
142570117	9/14/14	10:31:25	Trf Seatbelt	500	WASHBURN ST	Brownsville	WARNING - SEATBELT VIOLATION
142570085	9/14/14	8:09:04	CRIM MISCHIEF	154	PUTMAN ST	Brownsville	Incident Report
142570006	9/14/14	0:25:39	DISTB-NOISE	205	TEMPLETON ST	Brownsville	No Additional Report Necessary
142560413	9/13/14	23:52:45	EXTRA PATROL	1001	KIRK AV	Brownsville	No Additional Report Necessary
142560316	9/13/14	18:38:54	DOG COMPLAINT	320	E BLAKELY AV	Brownsville	No Additional Report Necessary
142550350	9/12/14	18:56:46	DOG COMPLAINT	639	N MAIN ST	Brownsville	No Additional Report Necessary
142550148	9/12/14	11:19:43	THEFT-RPT	112	SPAULDING AV	Brownsville	No Additional Report Necessary
142540237	9/11/14	13:20:51	DOG COMPLAINT	621	ROBE ST	Brownsville	No Additional Report Necessary
142530331	9/10/14	17:57:09	SUSP-PERSON	120	SPAULDING AV	Brownsville	No Additional Report Necessary
142530276	9/10/14	15:46:07	HAZ-TRAFFIC	200	ELM ST	Brownsville	No Additional Report Necessary
142530050	9/10/14	4:24:32	Trf Equipment Viol	800	LOUCKS WY	Brownsville	No Additional Report Necessary
142520034	9/09/14	2:16:46	Trf Speed Viol	400	E BISHOP WY	Brownsville	WARNING - EQUIPMENT VIOLATION
142510185	9/08/14	11:44:18	THREATS	112	SPAULDING AV	Brownsville	WARNING - SPEEDING VIOLATION
142510146	9/08/14	10:20:05	UNAUTHORIZED ENTRY TO MO	109	SPAULDING AV	Brownsville	No Additional Report Necessary
142500211	9/07/14	15:51:42	TRESPASS	855	LINN WY	Brownsville	Incident Report
142500196	9/07/14	14:46:26	MENTAL-OTHER	130	SPAULDING AV	Brownsville	No Additional Report Necessary
142490356	9/06/14	20:23:19	PERS-MISSING	200	PARK AV	Brownsville	No Additional Report Necessary
142490280	9/06/14	16:56:59	VIOL OF RESTR ORDER	604	CALAPOOIA AV	Brownsville	No Additional Report Necessary
142470260	9/04/14	14:07:28	PROP-FOUND	150	LOCUST AV	Brownsville	Incident Report
142450440	9/02/14	19:00:16	HAZ-TRAFFIC	200	ELM ST	Brownsville	No Additional Report Necessary
142450093	9/02/14	7:49:44	HAZ-TRAFFIC	100	WALNUT AV	Brownsville	No Additional Report Necessary
142450073	9/02/14	7:24:05	Trf Speed Viol	800	W HWY 228	Brownsville	CITE ISSUED - SPEEDING VIOLATION
142450071	9/02/14	7:23:21	Trf Speed Viol	800	W HWY 228	Brownsville	CITE ISSUED - SPEEDING VIOLATION
142450065	9/02/14	6:58:13	Trf Speed Viol	220	S MAIN ST	Brownsville	CITE ISSUED - SPEEDING VIOLATION



**Library Advisory Board**  
*Librarian's Report*

September 2014

In August and September volunteers and staff worked on finishing an inventory of all the materials in the Library. This project is scheduled for every other year. It was a success. The main project in September was the packing up and readying the Library for the new flooring. The best news is that the flooring and upholstery look fabulous. Now that the flooring is finished we are straightening the books, putting the plants and decorations back in the correct place, moving small file cabinets to new locations, and putting many supplies back. For the most part everything is in the correct place. Thank you for your contribution of time, effort and funds to make the Library flooring project happen. Patrons, volunteers and staff are delighted with the new flooring and upholstery.

Volunteers continue to step up to the plate and fill places vacated by other volunteers moving on. Library Advisory Board member Jennifer Ashcraft has volunteered to head up the Display Cases. In September the Daughters of the American Revolution put in another fabulous display about the US Constitution. October will find a display by the Brownsville Art Association. These Displays are always a joy to look at throughout the month.

Here are a few facts about our library the month of September 2014. We have received 12 new books for the library. Volunteers donated 92.5 hours to our library. There were 1,002 materials checked out. 423 adult fiction books; 132 adult non-fiction books; 49 audio books; 106 children's books; 174 junior books; 38 junior reference books and 80 large print books.

Respectfully submitted,

Sherrí Lemhouse  
Librarian



**BROWNSVILLE MUNICIPAL COURT MONTHLY REPORT  
STATISTICAL REPORT FOR THE MONTH OF SEPTEMBER 2014**

Offense Class	Pending First Day	Filed	Closed	Pending Last Day	Trials
Misdemeanors	46	2	5	43	1
Violations	26	10	15	21	
Contempt/Other	39	1	3	37	
<b>TOTALS</b>	<b>111</b>	<b>13</b>	<b>23</b>	<b>101</b>	<b>1</b>

**BALANCE SHEET FOR THE MONTH OF SEPTEMBER 2014**

Court Revenue		Court Payments	
Total Deposits +	\$ 1,125.00	City	\$ 760.00
Total Bail Forfeits +	\$ 160.00	Restitution	\$ -
Total Bail/Bank Fees -	\$ -	Oregon Dept Revenue	\$ 287.00
Total Bail Held -	\$ 160.00	Linn County	\$ 58.00
* Total Refund/Rest	\$ 20.00	State Misc.	\$ -
Total NSF's -	\$ -	DUII Surcharge	\$ -
<b>TOTAL COURT REVENUE</b>	<b><u>\$ 1,105.00</u></b>	<b>TOTAL COURT PAYMENTS</b>	<b><u>\$1,105.00</u></b>
Credit given for Community Service	\$ -		
Other Credit Allowed Against Fines	\$ -		
<b>TOTAL NON-REVENUE CREDIT ALLOWED</b>	<b><u>\$ -</u></b>		
<b>TOTAL CASH PAYMENTS TO:</b>			
CITY	\$ 760.00		
STATE	\$ 287.00		
COUNTY	\$ 58.00		
*REFUND/RESTITUTION	\$ 20.00		
<b>ACCOUNTS RECEIVABLE:</b>			
BEGINNING	\$ 2,636.12		
ENDING	\$ 1,602.59		



## 2013-2014 Council Goals

### ***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 to a new, participatory approach throughout the community.

### ***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      |

## **GOALS**

### ***Securing Water & Water Rights***

- 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.
  - Council is determining the quality of the water.
  - Council is developing cost estimates for the most viable options.
  - Council is exploring the Federal & State requirements for this water source.



## 2013-2014 Council Goals

### **Where are we now?**

- ☑ *GR 12 is a viable source.*
- ☑ *Erwin Consulting developed cost estimates for two approaches.*
- ☑ *Council authorized one cost estimate to be included in the FY2014-2015 Budget.*
- ☑ *Determine Federal & State implications.*
- ☑ *Verified source viability with Schroeder Law on September 16<sup>th</sup>, 2014.*
- ☑ *Project is currently being engineered*
- **Exploring Additional Resources**
  - **Options include exploring the procurement of upstream water rights and other possibilities that exist in other areas of Brownsville.**

### **Where are we now?**

- ☑ *Continue to monitor additional opportunities.*

### **Economic Development Plan**

- **The two chief focuses of Economic Development are 1) retaining existing business and 2) attracting new business.**
- **Land Purchase**
  - **Council is researching legal requirements for purchasing & selling land.**
  - **Council is examining the implications of purchasing land.**
  - **Council is considering possible civil engineering needs.**

### **Where are we now?**

- ☑ *City Attorney Ross Williamson explained that cities do not have the authority under State law to sell land directly to one party. The land must be put out for public auction. The City had to modify the plan to purchase and market land for development purposes.*
- ☑ *Council learned of a new imminent Federal law (Biggert Waters Act) that would make development impossible within a certain distance of a water source that has been identified as hosting endangered species.*
- ☑ *Council will not spend money on civil engineering costs surrounding a development. Council may cost share in development once it begins depending the service coverage for the general public and future implications.*
- ☑ *Council has forged a solid working relationship with McFarland Cascade which could lead to future development opportunities for Brownsville.*
- **Community Amenities**
  - **Council would like to encourage and facilitate a Senior Living Facility to be developed in Brownsville.**



## 2013-2014 Council Goals

- Council would like to encourage and facilitate Youth Activities by continuing to work in partnership with the Central Linn Recreation Association and by fostering a better partnership with the Central Linn School District.

### **Where are we now?**

- ☑ *Mayor Ware began discussions as "Citizen Ware" to develop the idea of a Senior Living Facility. Staff provided background research and cost estimates.*
- ☑ *Council instructed Mayor Ware to be careful not to implicate Council or City involvement. The investment should be from the private sector.*
- ☑ *The Rec Center is working on several initiatives for funding.*
- ☑ *Council & CLRA continues to work closely on events and Park uses.*
- ☑ *Council & CLRA approved an updated agreement.*
- ☑ *Council discussed the implications of purchasing property on behalf of the Central Linn School District.*
- ☑ *Staff has been working with CLSD & the City of Halsey on possible locations and facilities for the District.*
- ☑ *Council entered into an agreement with the CLRA to assist with programmatic and organizational developments pieces in July 2014.*

### **Community Development Plan**

- **Adopting a Brownsville Development Plan**
  - Council is actively auditing City zoning rules and requirements.
  - Council is implementing new policies regarding issues including, but not limited to, mixed-use options, garage sales, recreational vehicles use, zoning permits and other administrative processes.
  - Council is reviewing requirements toward adopting a comprehensive model for proper growth and development.
  - Council is developing Public Works standards.

### **Where are we now?**

- ☑ *Administrative Assistant Elizabeth Coleman has re-developed many of the forms that haven't been updated since the late 1980's.*
- ☑ *Staff asked for policy changes in October 2013 but Council was not ready to make changes.*
- ☑ *Public Works Standards are with the City Engineer for review.*
- ☑ *Public Works Standards are in the process of being approved by Council.*
- ☑ *Accessory Structures and fences are currently in the process of being approved by Council.*
- **Sidewalk Inventory**
  - Council is actively working on developing a sidewalk program.



## 2013-2014 Council Goals

- Council will determine action steps once the inventory is complete.

### **Where are we now?**

- ☑ *An initial sidewalk inventory is complete.*
- ☑ *The sidewalk inventory still needs Council approval.*

### **Capital Improvements Plan**

#### ▪ Water Plant & Distribution

- Council has contracted for the repair of the Water Treatment Plant (WTP) computer system.

### **Where are we now?**

- ☑ *System is installed and running properly.*
- Council has budgeted for a new emergency generator for the WTP.

### **Where are we now?**

- ☑ *Staff has not had time to complete this project.*
- ☑ *Funds were budgeted for FY 2014-2015.*
- Council understands that the City is in need of a new 1.1 million gallon reservoir.

### **Where are we now?**

- ☑ *Part of future bond project.*
- ☑ *The implication of this project on the System Development Charges (SDC) is significant. Any changes to the methodology would require this improvement to be used in the calculation of SDC. The end result would be a significant increase in the SDC which is counterproductive at this point.*
- Council understands there are a few critical water lines that need to be replaced including the Main Street waterline.

### **Where are we now?**

- ☑ *Main Street line failed on December 13<sup>th</sup>, 2013. Council created a plan for temporary repair of the line that will be included in the FY 2014-2015 Budget.*
- ☑ *Council budgeted for the Main Street line, the Averill Street line and for the redevelopment of the GR 12 site in FY 2014-2015. All projects are currently in being engineered and are expected to be ready for bid as one project in March of 2015.*
- Council is currently repairing the Calapooia Crossing waterline this upcoming fiscal year.

### **Where are we now?**

- ☑ *Project is complete.*

#### ▪ Wastewater Treatment & Collections

### **2013-2014 Council Goals**



## 2013-2014 Council Goals

- Council has budgeted for a well for the South Plant.
- Council understands that nearly 45% of the collection lines are in need of replacement.
- Council is aware that the Millhouse line will be a priority in FY 2014-2015.

### **Where are we now?**

- ☑ *Staff has prepared plans for the construction of this project in FY 2014-2015.*
- ☑ *The project is complete pending the final testing on four manholes. The City expended an additional \$37,350 for the water line to be extended from Kirk Avenue up Millhouse and had \$29,995 in additional pavements work due to subsurface conditions. The City will hold nearly \$10,000 in escrow until the final item has passed the proper testing.*
  - Council is conducting visual inspections of the collection system to determine priorities.
- **Kirk Avenue Improvements**
  - 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.

### **Where are we now?**

- ☑ *Linn County Road Master is including a route through Brownsville for the Bi-Mart Willamette Country Music Festival. Hopefully, this will help speed the process up for Linn County.*
- ☑ *The City will work in conjunction with the Festival and the Linn County Road Department to perform traffic counts in Jul 2015 and then during the Festival 2015 to have empirical data about the increase in traffic for the event.*
- ☑ *Council approved the additional route at the request of the Linn County Commissioner's in 2014. The route seemed to work due in large part to the Linn County Sheriff's Office running traffic on the road during the event and placing the electronic speed sign as an effort to slow motorists down. The only complaint received was from Kaye Fox who apparently kept traffic data of her own which she forwarded to the Linn County Commissioners. Her information was part of the public documents for the September 24<sup>th</sup>, 2014 hearing for the Festival's 2015 & 2016 applications.*
  - Council determined that Linn County will put the improvement on their capital improvements list which will hopefully be no later than FY 2014-2015.
  - 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.

### **Staff & Organizational Development**

- **Titles Changes**



## 2013-2014 Council Goals

- City Hall Staff recently revamped job descriptions along with organizational responsibilities to better reflect duties.

### **Where are we now?**

- ☑ *In process. CIS recently released the updated policy handbook. Staff hopes to have this to Council by the end of 2014. Due to shifting priorities, Staff has had great difficulty finding the needed time to spend on this important item.*
- The goal is to cross-train all City Hall Staff in all responsibilities. Having job descriptions such as Utility Billing Clerk and Planner limit the scope of the employee which has historically caused job dissatisfaction and lack of cooperation toward executing proper cross-training.

### **Where are we now?**

- ☑ *In process. Administrative Assistants have been working on many projects and increased Staff capacity and efficiency. Several meetings have been held to assist in breaking down historic barriers for greater communication among all members of the Staff. We continually work on these areas to increase our performance level and capabilities.*
- Council encourages Staff to continually develop their professional skills and capacities as employees.

### **Where are we now?**

- ☑ *On going. Staff has attended training and the City Administrator is working toward a collective impact piece that will bring all employees up to speed with Council goals and objectives.*
- Council Development
  - Council recognizes the need for additional training & development. Council will continue to improve individually in their role as community leaders working together to accomplished shared organizational goals.

### **Where are we now?**

- ☑ *To be determined.*
- ☑ *Council discussed possibilities at the July 2014 meeting. After the election in November, Council will discuss strategies moving forward depending on the election results.*
- Council will be working on a resolution that articulates the accountability of all officials both elected and appointed. Proper training and execution of responsibilities is vital for the overall health of the organization.

### **Where are we now?**

- ☑ *Complete. Council passed Resolution 718.*
- ☑ *Failed first attempt at implementation. Council needs to be trained on the application of this resolution and how it will positively impact organizational culture.*

### **Emergency Preparedness Effort**

- Community Awareness & Education



## 2013-2014 Council Goals

- Council would like to execute several goals pertaining to on-going community education in the area of emergency preparedness.
- Council would like to have an on-going partnership and dialogue with the Brownsville Rural Fire District and the Central Linn School District to assist getting the message to the extended community.

### ***Where are we now?***

- ☑ *Staff has not had time to begin this goal. Discussions have been held and some members have been identified.*
- ☑ *Staff recommends supporting a group of individuals who would form a non-profit group that would be charged with most of the mission as defined in the Brownsville Municipal Code. The first attempt at a City operated committee failed because two members could not work well within the scope defined by the group. They were also interested in collecting information that would cause the City some legal concerns. If a non-profit is formed, they would be less restricted and better equipped to implement concepts that would be illegal for the City to handle.*
- **Agreements**
  - Council would like to execute agreements for specialized services and for designated mass gathering areas throughout the community.

### **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 understand the unrelenting nature of citizen complaints and how to effectively deal with emotional issues from the general public.
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





## 2013-2014 Council Goals

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 two of those models:

### *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

**Acceptable  
Conduct**  
**vs.**  
**Unacceptable  
Conduct**



### **THE PROCESS OF PROGRESS**

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

### **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



## 2013-2014 Council Goals

Information added after April 19<sup>th</sup>, 2014 Council Retreat:

1. Proposed Policy Changes as they relate to current Council Goals:

Councilor Gerber said that it would be great to have holistic approach to these improvements instead of a fragmented, piece meal approach. So, we have them listed below for discussion:

- ▶ **ROW Infractions Policy:** Trailers, Boats, Porches and Irrigation Systems. Council discussed what this would like with some detail. Basically, history has not been kind to the City. How do we make things better now and in the future?
- ▶ **Nuisance Abatement Timelines:** Taking November & December, March through May off due to the holidays and budget season.
- ▶ **Construction Permits:** Making sure that Zoning laws are understood by the general public, carried out by applicants and properly enforced by City Officials.
- ▶ **Business Registration Process:** Council discussed the practical application of adopting this sort of process.
- ▶ **Zoning Code Review:** Staff reviews currently underway.
- ▶ **Civil Engineering Standards:** Staff reviews currently underway.

McDowell indicated that these can be brought to Council as a group, though it will be difficult due to all the parts and pieces that are required. Unfortunately, piecemeal may be the only real way to implement some of these policies. Staff will try to get these discussions on the agenda as early as July 2014.

2. Council Training & Development

- ▶ Continuing to Seek Opportunities
- ▶ Regular Attendance
- ▶ Come Prepared
- ▶ Be an Active Participant
- ▶ McDowell to provide a weekly recording to keep Councilor abreast of weekly developments



**RESOLUTION NO. 2014.18**

**A RESOLUTION ADOPTING *LIVIN' IN BROWNSVILLE*  
AS THE TOWN SONG**

**WHEREAS**, the members of the Brownsville Council wish to recognize "*Livin' in Brownsville*" as the official song of the City of Brownsville; and

**WHEREAS**, Ken Richter, a Brownsville songwriter, composed the song in 2009 and has shared the song with the community at various performances since that time; and

**WHEREAS**, music is an integral part of American culture and a major part of the community fabric in Brownsville; and

**WHEREAS**, if fans of any other genre of music think those styles also should be recognized by the City, then they can forward their song as well for consideration; and

**WHEREAS**, "*Livin' in Brownsville*" is of particular relevance to the charm and character of the town; and

**NOW THEREFORE BE IT RESOLVED**, the Brownsville Council officially adopts "*Livin' in Brownsville*" as the official song of the City of Brownsville and chooses to extend thanks to Ken Richter for a job well done!

**PASSED AND ADOPTED** by the Council of the City of Brownsville this 28<sup>th</sup> day of October, 2014.

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

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

**\* Song Lyrics on the following pages.**

# *Living in Brownsville*

I'm living in Brownsville  
I'm living in Brownsville  
They call it Coolsville  
This town's got spunk  
Got a little bit of high end  
Got a little bit of low end  
Got a little bit of fancy  
Got a little bit of junk

Folks are friendly  
Come on and say hello  
Walk your own path  
And share this road  
You can Stand by Me  
And I'll stand by me with you  
Living in Brownsville  
That is what we do

Was it the Picnic or the 4<sup>th</sup> of July  
Was it the Cruisin' or the antiques that I like  
Was it Sue Miles and her funky blues guitar  
Something about this place took a piece of my heart

There is a café north  
There is a café south  
There is one in the middle  
And it all works out  
There is a million churches  
There's a biker bar  
There's a hardware store  
Cause we're all gonna fall apart

Was it the Picnic or the 4<sup>th</sup> of July  
We've got a fitness center  
That will keep us with The Times  
I love the Museum  
And love standing in the Park.  
Some about this place took a piece of my heart

There's a million reason  
There's a million stories

# *Living in Brownsville*

Some say its fate  
Some claims it God's glory  
If you're looking to be happy  
You don't have to look too far  
Hang on to your loved ones  
This town will steal your heart

I'm living in Brownsville  
I'm living in Brownsville  
Hang on to your loved ones  
This town will steal your heart

I'm living in Brownsville  
I'm living in Brownsville  
Hang on to your loved ones  
This town will steal your heart

Hang on to your loved ones  
This town will steal your heart



**RESOLUTION NO. 2014.19**

**A RESOLUTION SETTING FEES AS AUTHORIZED BY  
BROWNSVILLE MUNICIPAL CODE CHAPTER 3.10  
REGARDING SYSTEM DEVELOPMENT CHARGES**

**WHEREAS**, Brownsville Municipal Code Chapter 3.10 passed by Council and approved by the Mayor on August 15<sup>th</sup>, 1998, authorizes fees to be set by Resolution of Council; and

**WHEREAS**, Council passed Resolution 568 on June 20<sup>th</sup>, 2006 which reflects the actual rates the City has been administering since that time; and

**WHEREAS**, Council passed Resolution 719 on October 22<sup>nd</sup>, 2013 in part to study the methodology and to determine the ability of the City to apply and administer those administrative charges; and

**WHEREAS**, Council has determined that a completely new methodology would be required in order to make the modifications the City wanted to implement; and

**WHEREAS**, Council has determined that the best course of action is to maintain the rates at the 2006 level due to the historical implications of making such a change; and

**NOW, THEREFORE, BE IT RESOLVED BY THE BROWNSVILLE CITY COUNCIL**, THAT the City of Brownsville shall adopt the charges set forth in the following table. Below are the service sizes by type and associated fees:

**Adopted Rates**

<b>Meter Size</b>	<b>Water SDC</b>	<b>Sewer SDC</b>	<b>Storm SDC</b>	<b>Total</b>
3/4"	\$ 2,093	\$ 5,160	\$ 1,968	\$ 9,221
1"	\$ 5,233	\$ 12,899	\$ 1,968	\$ 20,100
1 1/2"	\$ 10,466	\$ 25,796	\$ 1,968	\$ 38,230
2"	\$ 16,746	\$ 41,274	\$ 1,968	\$ 59,988
3"	\$ 31,400	\$ 77,390	\$ 1,968	\$ 110,758
4"	\$ 52,332	\$ 128,982	\$ 1,968	\$ 183,282
6"	\$ 104,664	\$ 257,965	\$ 1,968	\$ 364,597

Introduced and adopted this 28<sup>th</sup> day of October 2014.

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

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



**RESOLUTION NO. 2014.20**

**A RESOLUTION OF THE CITY COUNCIL ESTABLISHING TAX RATES FOR THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF BROWNSVILLE**

**RECITALS:**

- A. The Brownsville City Council on October 28<sup>th</sup>, 2014 adopted Ordinance No. 750 establishing a tax on marijuana and marijuana-infused products in the City of Brownsville.
- B. Ordinance No. 750 provides that the Council shall by resolution establish a tax rate for the sale of marijuana and marijuana-infused products.

**NOW, THEREFORE, THE CITY OF BROWNSVILLE RESOLVES AS FOLLOWS:**

**SECTION 1.** Pursuant to Ordinance No. 750, the City Council of the City of Brownsville establishes a tax rate of six percent (6%) of the gross taxable sales amount paid by a registry identification cardholder to a seller of marijuana and marijuana-infused products that is a dispensary registered by the Oregon Health Authority pursuant to ORS 475.314.

**SECTION 2.** Pursuant to Ordinance No. 750, the City Council of the City of Brownsville establishes a tax rate of six percent (6%) of the gross taxable sales amount paid by a purchaser to a seller of marijuana and marijuana-infused products that is not a dispensary registered by the Oregon Health Authority pursuant to ORS 475.314.

**SECTION 3.** This resolution shall take effect on November 28<sup>th</sup>, 2014.

Introduced and adopted this 28<sup>th</sup> day of October 2014.

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Don Ware, Mayor

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S. Scott McDowell, City Administrator



## ORDINANCE NO. 748

**AN ORDINANCE AMENDING TITLE 15, UNIFORM DEVELOPMENT CODE, 15.15.020 DEFINITIONS, 15.15.035 CONSTRUCTION PERMIT REQUIRED, 15.45.020 SPECIFICATIONS FOR IMPROVEMENTS, 15.75.010 ADMINISTRATION, 15.75.030 BUILDING PERMIT APPROVAL, 15.80.045 MINIMUM SETBACK CHART & FENCING VISION DIAGRAMS AND 15.85.060 VISION CLEARANCE TO THE MUNICIPAL CODE OF THE CITY OF BROWNSVILLE, OREGON;**

**WHEREAS**, Title 15 of the Brownsville Municipal Code (BMC) defines Uniform Development within the City of Brownsville; and,

**WHEREAS**, Council has filed the appropriate notice to the Department of Land Conservation & Development in accordance with State law; and,

**WHEREAS**, the Council desires to establish Public Works Standards and design criteria to provide a clear process for the construction of public improvements and improvements effected public infrastructure; and,

**WHEREAS**, the Council desires to create a clear process and system for the construction of accessory structures; and,

**WHEREAS**, the Council desires to create a clear process for the construction and installation of fences; and.

**WHEREAS**, the Council desires to create necessary definitions in accordance with these processes and applications; and,

**NOW THEREFORE**, the City of Brownsville ordains the following additions to the Brownsville Municipal Code as follows:

### **SECTION I. 15.45.020 Specifications for improvements.**

- E. Public Standards and design criteria pertaining to all developments and improvements to the public infrastructure within the City of Brownsville are hereby accepted and approved by the Planning Commission and Council and can be found under Appendices, Appendix F., in the Brownsville Municipal Code.

### **SECTION II. 15.75.010 Administration.**

The City Administrator or designee shall be responsible for administering Public Works Standards and design criteria, the proper placement and execution of accessory structures and fences as these are common development components of property within the City of Brownsville.

Fence requirements can be found in Appendices, Appendix G., in the Brownsville Municipal Code.





## ORDINANCE NO. 748

### **SECTION III. 15.75.030 Building Permit Approval.**

The City Administrator or designee shall have the authority to review and approve all accessory structure permits and fence permits as required by the Brownsville Municipal Code. The City Administrator shall also ensure that the Public Works Standards and design criteria are properly applied and enforced in coordination with the Public Works Superintendent and the City Engineer. Each of the reviews and approvals shall be both prior and subsequent to construction.

Fence requirements can be found in Appendices, Appendix G., in the Brownsville Municipal Code.

Modify the following definition to read as follows:

### **SECTION IV. 15.85.060 Vision Clearance.**

"Vision Clearance" means area near intersections of right-of-ways, curb cuts and other roadway entry points where a clear field of vision is necessary for traffic safety. Vision clearance shall be determined by the City Administrator or designee using City Standards, State or Federal traffic guidelines. The City Engineer may be used for vision clearance review at the property owner and/or applicants expense.

### **SECTION V. 15.15.020 Definitions.**

For the purpose of this ordinance, the following terms shall mean:

1. **"Construction Permit"** means an application obtained from the City to construct a primary structure.
2. **"Accessory Structure Permit"** means an application obtained from the City to place a structure that is incidental or subordinate to the primary use of the property.
3. **"Fence Permit"** means an application obtained from the City to place a fence on private property.

These definitions shall be add to Titles 13.05.010 & 15.70.030.

### **SECTION VI. 15.15.035 Construction Permit Required**

The City of Brownsville requires a construction permit for primary structures, accessory structures and fences. Permit costs shall be set by resolution and periodically reviewed by Council.

"Accessory Structure" means a structure incidental and subordinate to the primary use of the property in accordance with the Zoning Code and which is located on



**ORDINANCE NO. 748**

the same lot with the primary use. Accessory structures include, but are not limited to, a storage shed, carport, greenhouse, pole building/shop, detached garage, or farm animal enclosure are subject to the setback requirements and lot coverage requirements of the Zoning Code.

**SECTION VII. 15.80.045 Minimum Setback Chart & Fencing Vision Diagrams**

**CITY OF BROWNSVILLE ZONING SETBACK CHART**

Zone	Front Yard Minimum Setbacks	Corner Lot (Street Side) Minimum Setbacks	Interior Lot (Total of both side yards) Minimum Setbacks	Side Yard (Out on a Street) Minimum Setbacks	Rear Yard Minimum Setbacks	Garage/Carport Minimum Setback from the Street	Max. Bld. Height	Max. Bld. Coverage Imperious Surface
<b>Primary Structures</b>								
Low Density Residential	20'	20'	15'	5'	15'	20'	35'	30% / 40%
Medium Density Residential	15'	15'	15'	5'	15'	20'	35'	40% / 50%
High Density Residential	10'	10'	15'	5'	5'	20'	35'	50% / 80%
Volume Commercial (M)	20'	20 ft.	15'	5'	10'	n/a	35'/2 Stories	50% / 90%
Heavy Industrial	20'	10'	15'	n/a	n/a	n/a	45'	0% / 85%
Public (M)							35'	50% / 80%
Accessory Structures								
Low Density Residential				5'	5'		22'	
Medium Density Residential				5'	5'		18'	
High Density Residential				5'	5'		18'	
Volume Commercial (M)							22'/1 Story	

- I. Height of the Principal Building only.
- II. Structures built along Highway 228 shall follow setback requirements as established by the Oregon Department of Transportation.
- III. Yard requirements for the Public Zone may be determined on an individual basis, guided by the prevailing yard requirements in the immediate vicinity.
- IV. An accessory structure or use shall comply with the setback requirements of the applicable zoning district, and shall not be closer to the street than the primary structure.
- V. No accessory structure or use will be permitted on any lot without an established principle use.
- VI. Setbacks in Special Development Zones shall go through Administrative Review for determination.

NOTE: For minimum setbacks in a Manufactured Home Park, please contact City Hall.



TITLE 15.75.030  
Fence Standards

- I. Purpose.
- II. Scope.
- III. Definitions.
- IV. Permitted fences.
- V. Similar fences.
- VI. Corner or through lot.
- VII. Maintenance.
- VIII. Permit.
- IX. Inspection.

**I. PURPOSE.**

The purpose of this chapter is to establish regulations controlling the use of fences, hedges, and walls whereby the lot owner may have the privilege of privacy and landscape design within his or her own lot with due consideration to the environment of his or her neighbor, the safety of the public, the individual and the general appearance of the community.

**II. SCOPE.**

This chapter shall apply to all zoning districts. The fence regulations herein shall not apply to any permanent fence erected prior to the effective date of this adoption.

**III. DEFINITIONS.**

"Fence" means any structure composed of wood, iron, steel, shrubbery, hedges or other material erected in such a manner and position as to enclose or partially enclose all or any part of any premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers and other vegetation when erected in such position as to enclose all or any part of any premises shall be included within the definition of the word "fence".

"Property Line Verification" means the City will use GIS and other means to determine the general location of property lines plus or minus one or two feet. It may mean an official, certified survey document completed by a surveyor licensed in the State of Oregon. All costs for any official survey shall be the sole responsibility of the applicant and/or the property owner.

"Measurements" shall mean the required yard setbacks will be measured from the actual property line or closest proximity and not from the paved portion of the right-of-way.

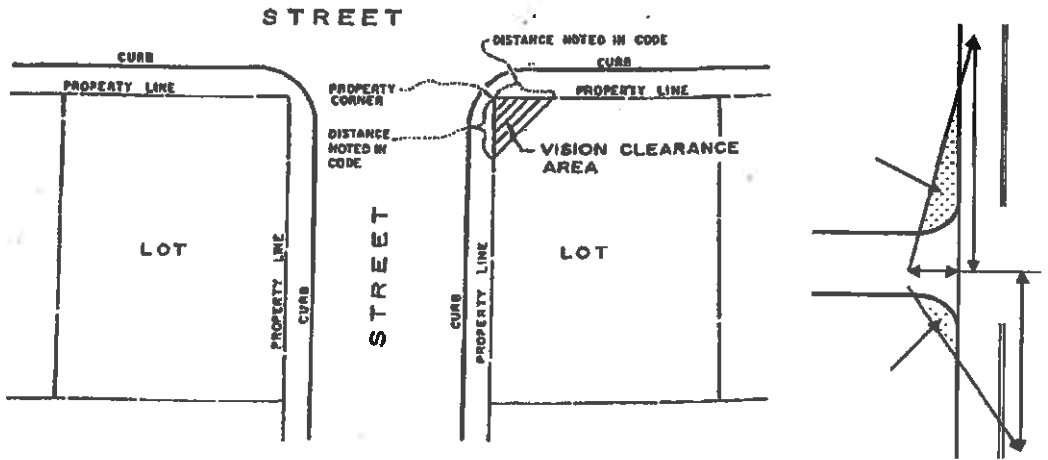
"Right-of-way" means a City owned street, alley, easement, or through way, and/or utility owned easements. City owned right-of-ways vary in width but are always wider than the paved portion that exists within said right-of-ways. Paved portions of right-of-ways are not always centered in any given right-of-way.

"Fence Height" is the vertical distance measured from the natural grade to the highest point of the fence including structural supports.



**ORDINANCE NO. 748**

**Vision Clearance Diagram:**



PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

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



"Vision Clearance" means area near intersections of right-of-ways, curb cuts and other roadway entry points where a clear field of vision is necessary for traffic safety. Vision clearance shall be determined by the City Administrator or designee using City Standards, State or Federal traffic guidelines. The City Engineer may be used for vision clearance review at the property owner and/or applicants expense.

#### IV. PERMITTED FENCES.

Fences shall be permitted in required yards as follows:

- a) Fences. Shall be permitted in public facilities and all zoning districts.
  1. **Front yards**. Fences may be erected in front yards parallel to the building line to a height not exceeding three and one-half feet.
  2. **Side and rear yards**. Fences may be erected in side and rear yards as described herein and shall be at least one foot (1') from the property line, unless a certified survey (property line verification) is obtained or existing property pins have been located.
- b) Chain Link Fences. Shall be permitted in all zoning districts only in rear and side yards. Said fences may be erected at a height not exceeding six feet above the natural grade, exceptions include Light & Heavy Industrial Zones.
- c) Privacy Fences. Shall be permitted in all zoning districts in rear and side yards. Fences shall not exceed six feet in height above the natural grade unless a building permit is obtained.
- d) Shrubbery or Hedges. Shall be permitted in public facilities and all zoning districts provided they do not encroach upon the abutting property. Responsible owner shall maintain shrubbery and grass on both sides of the vegetation.
- e) Barbed Wire or Stockade Fences. Shall be permitted in the light & heavy industrial zones only in rear and side yards. Said fences may be to a height not exceeding six feet unless a building permit is obtained.
- f) General. Any and all fences shall comply with vision clearance distances as described herein. All fences must be constructed of wood, chain link, stone, rock, concrete block, masonry brick, brick, decorative wrought iron, or other material(s) which are similar in durability. Unacceptable fence materials include cast-off, secondhand, and other items not originally intended to be fencing, (examples include plywood less than 5/8 inch thick, low-grade plywood, particle board, paper, visqueen plastic, plastic tarp and similar materials, razor wire and other dangerous materials, sheet metal, roll metal, and corrugated metal.)

All applicants shall ensure that they have obtained the proper permission from any abutting utility or Franchisee. Fences may not cross any non-exclusive ingress/egress easements. The following utilities or Franchises may be contacted regarding easements:



- ▶ Electrical and/or Gas – Pacific Power Company & Northwest Natural Gas
- ▶ Water, Sewer or Drainage – City of Brownsville
- ▶ Telephone - CenturyLink

No fence shall extend beyond the property line.

#### **V. SIMILAR FENCES.**

The City Administrator or designee may permit other fences which are similar in character, design and materials to one or more of the fences permitted by this chapter.

#### **VI. CORNER OR THROUGH LOT.**

Where a rear or side yard abuts a street or other public right-of-ways, fences shall provide adequate vision clearance which may require review from the City Engineer at the owners expense. Vision clearance shall be determined by the City Administrator or designee using City Standards, State or Federal traffic guidelines.

#### **VII. MAINTENANCE.**

Such permitted fences shall be maintained in good condition, be structurally sound and shall not be verbally offensive to neighbors. Fences shall also not be overgrown with vines and weeds.

#### **VIII. PERMIT.**

Any fence which may be permitted shall require the issuance of a permit prior to its erection by the City, after approval. Prior to the construction of any fence, an application to construct the fence must be obtained from the City of Brownsville, together with a plot plan showing the location and dimensions of the property to be fenced and the location of the proposed fence, as well as the permit fee as adopted by resolution of Council.

#### **IX. INSPECTION.**

It shall be the duty of each property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans as approved by the City. The City shall furnish such inspection as is deemed necessary to determine that said fence is constructed in accordance with plans submitted per the permit application. The issuance of any fence permit by the City shall not be construed to mean the City has determined said fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed herein.



Fee: \$30.00

Permit No: \_\_\_\_\_

### Residential Fence Permit Application

Fences over 6' will require a building permit

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

Applicant Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Legal Owner: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Tax Lot No. \_\_\_\_\_

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

**\*\*\*Please attach a sketch of your project, including dimensions, fence location,**

**Fence Material**

**Fence Type**

Wood  Plastic/Vinyl  Picket  Lattice   
Metal  Chain-link  Split Rail  Split Rail

Other  (Describe) \_\_\_\_\_ Other  (Describe) \_\_\_\_\_

Fence Location & Height Front Yard\* \_\_\_\_\_ Rear Yard \_\_\_\_\_ Side Yard \_\_\_\_\_

- \*A fence located in the front yard may not exceed a height of 42" in height, with limited exceptions.
- In no instance shall a fence extend beyond the property line.
- Fences and hedges shall not conflict with requirements of a vision clearance area.

**Provide a site plan of your property:** Indicate which direction is north. Show the location of the proposed fence, house, garage, neighbor's buildings, streets, alleys & sidewalks.

Construction of a fence must not obstruct any existing easements, including but not limited to drainage, utility, ingress and egress easements.

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

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

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



**Accessory Structure Pre-Application Form**

Date of Application: \_\_\_\_\_ Permit #: \_\_\_\_\_

Applicant Name : \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Legal Owner: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Zone: \_\_\_\_\_

Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Tax Lot No. \_\_\_\_\_

Site Address: \_\_\_\_\_ Proposed Construction: \_\_\_\_\_

**Please attach a drawing on 8.5" x 11" or larger paper that includes distances from the new structure to existing buildings and to all property lines.**

Distance of Structure from Property Lines: \_\_\_\_\_ North \_\_\_\_\_ South \_\_\_\_\_ East \_\_\_\_\_ West

**NOTE: Information below may require review from the City Engineer. Additional fees for review will apply. See attached Brownsville Municipal Code Setback Chart for requirements for your zone.**

▶ 100- year Floodplain YES  NO  ▶ Floodway YES  NO

Proposed grading and/or fill, if applicable. (All fill and backfill soil within six (6) feet of the building shall be compacted so as not to allow displacement).

Submitted: Yes No  
Approved: Yes No

Proposed Drainage plans including destination for drainage from gutters and downspouts, and surface drainage destinations, if applicable.

Submitted: Yes No  
Approved: Yes No

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

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

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





Construction Permit Pre-Application Form
LDR, MDR, HDR Zones

Fee: \$30.00

Date of Application: Permit #:

Applicant Name : Phone Number:

Mailing Address:

Legal Owner: Phone Number:

Mailing Address:

Township Range Section Tax Lot No.

Site Address: Proposed Construction:

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

Distance of Structure from Property Lines: North South East West

Will you need?

Sanitary Sewer Tap
Water Tap/Meter
Sprinkler System
Yes No

Table with 3 columns: Flood Elevation Certificate Required, 100-year Floodplain, Floodway. Rows: YES, NO.

NOTE: Information below may require review from the City Engineer; additional fees will apply.

Proposed grading and/or fill, if applicable. (All fill and backfill soil within six (6) feet of the building shall be compacted so as not to allow displacement).

Submitted: Yes No Approved: Yes No

Proposed Drainage plans including destination for drainage from gutters and downspouts, and surface drainage destinations.

Submitted: Yes No Approved: Yes No

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

Applicant Signature: Date:

Zoning Coordinator: Date:



## ORDINANCE NO. 750

### AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF BROWNSVILLE

**WHEREAS**, Section 4 of the Brownsville Charter of 1981 provides as follows:

**Powers of the City.** The city has all powers which the constitution, statutes, or common law of the United States or of this state expressly or impliedly grant or allow municipalities as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the City of Brownsville wishes to tax the sale or transfer of marijuana and marijuana-infused products within the City;

**NOW, THEREFORE, THE CITY OF BROWNSVILLE ORDAINS AS FOLLOWS:**

**Section 1. Title:** This Ordinance shall be known as the Marijuana and Marijuana Infused Product Tax, and shall apply to all areas within the incorporated city limits of the City of Brownsville.

**Section 2. Purpose:** For the purpose of this ordinance, every person who purchases marijuana or marijuana-infused products in the City of Brownsville is exercising a taxable privilege. The purpose of this ordinance is to impose a tax upon the sale of marijuana and marijuana-infused products.

**Section 3. Definitions:** When not clearly otherwise indicated by the context, the following words and phrases shall have the following meanings.

1. **"City Administrator"** means the City Administrator of the City of Brownsville or his/her designee.
2. **"Gross Taxable Sales"** means the total amount received in money, credits, property or other consideration from sales of marijuana and marijuana-infused products that is subject to the tax imposed by this ordinance.
3. **"Marijuana"** means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.



## ORDINANCE NO. 750

4. **“Marijuana-Infused Products”** means products infused with usable marijuana that are intended for use, ingestion, or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.
5. **“Medical Use of Marijuana”** means the production, possession, delivery, distribution or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of the person’s debilitating medical condition.
6. **“Person”** means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
7. **“Purchaser”** means any person who acquires marijuana from a seller for any valuable consideration, including a registry identification card holder who acquires marijuana or marijuana-infused products for medical use.
8. **“Purchase or Sale”** means the acquisition or furnishing for consideration by any person of marijuana or marijuana-infused products within the City. “Purchase or Sale” does not include the furnishing of marijuana by the holder of a production license issued by the Oregon Liquor Control Commission to a seller.
9. **“Registry identification cardholder”** means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of marijuana may mitigate the symptoms or effects of the person’s debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.
10. **“Seller”** means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration, including dispensaries registered by the Oregon Health Authority under ORS 475.314.
11. **“Tax”** means either the tax payable by the purchaser or the aggregate amount of taxes a seller is required to remit during the period for which the seller is required to report collections under this ordinance

### **Section 4. Levy of Tax:**

- A. There is hereby levied and shall be paid a tax by every purchaser exercising the taxable privilege to purchase marijuana or marijuana-infused products as defined



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in this ordinance. The tax constitutes a debt owed by the purchaser to the City and shall be extinguished only by payment to the seller or to the City.

- B. The amount of tax levied shall be established by resolution of the City Council.
- C. The purchaser shall pay the tax to the seller at the time of the purchase or sale of the marijuana or marijuana-infused products.
- D. Every seller shall collect the tax from the purchaser at the time of the purchase or sale of the marijuana or marijuana-infused products. The tax collected by the seller constitutes a debt owed by the seller to the City.

### **Section 5. Deductions:**

The following deductions shall be allowed against sales received by the seller providing marijuana.

- A. Refunds of sales actually returned to any purchaser.
- B. Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

### **Section 6. Seller Responsible For Payment of Tax:**

- A. Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a report to the City Administrator on forms provided by the City, specifying the total sales subject to this ordinance and the amount of tax collected under this ordinance. A report shall not be considered filed until it is actually received by the City Administrator. The quarters are:

***First quarter:*** January, February, March

***Second quarter:*** April, May, June

***Third quarter:*** July, August, September

***Fourth quarter:*** October, November, December

- B. At the time the report is filed, the full amount of the tax collected by the seller shall be remitted to the City Administrator.
- C. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the



## ORDINANCE NO. 750

underlying tax until the payment is exhausted. If the City Administrator, in her or his sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the City Administrator may order such a change. The City Administrator may establish shorter reporting periods for any seller if the City Administrator deems it necessary in order to ensure collection of the tax. The City Administrator also may require additional information in the report relevant to payment of the liability. When a shorter reporting period is required, penalties and interest shall be computed according to the shorter reporting period. Reports and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this ordinance shall be held in trust for the City until remitted to the City Administrator. A separate trust bank account is not required in order to comply with this provision.

- D. For good cause, the City Administrator may extend the time for filing a report or paying the tax for not more than one month. Further extension may be granted only by the City Council. A seller to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due, without proration for a fraction of a month. If a report is not filed and if the tax and interest due are not paid by the end of the extension period, the interest shall become a part of the tax for computation of the penalties prescribed in Section 7 of this ordinance.
- E. Every seller required to remit the tax imposed in this ordinance shall be entitled to retain five percent (5%) of all taxes due to defray the costs of bookkeeping and remittance.
- F. Every seller must keep and preserve in an accounting format established by the City Administrator records of all sales made by the seller as well as such other books or accounts as may be required by the City Administrator. Every seller must keep and preserve for a period of three (3) years all such books, invoices and other records. The City Administrator shall have the right to inspect all such records upon request.

### **Section 7. Penalties and Interest:**

- A. Any seller who fails to remit any portion of any tax imposed by this ordinance within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.
- B. Any seller who fails to remit any delinquent remittance on or the 60<sup>th</sup> day following the date on which the remittance first became delinquent, shall pay an additional delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the penalty first imposed.



## ORDINANCE NO. 750

- C. If the City Administrator determines that the nonpayment of any remittance due under this ordinance is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be assessed by the City in addition to the penalties stated in subparagraphs A and B of this section.
- D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this ordinance shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid.
- F. A seller who fails to remit the tax within the required time may petition the City Council for waiver and refund of the penalty or a portion of it. The City Council may, if good cause is shown, direct a refund of the penalty or a portion of it. Any such hearing will be conducted under the procedures described in Section 9 of this ordinance.

### **Section 8. Failure to Report and Remit Tax-Determination of Tax by City Administrator:**

If any seller fails to make, within the time provided in this ordinance, any report of the tax required by this ordinance, or if the City Administrator questions the accuracy of a report, the City Administrator shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the City Administrator procures such facts and information as are obtainable, upon which to base the assessment of any tax imposed by this ordinance and payable by any seller, the City Administrator shall proceed to determine and assess against such seller the tax, interest, and penalties provided for by this ordinance. The City Administrator shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller at the seller's last known address. The seller may appeal the City Administrator's determination as provided in Section 9 of this ordinance. If no appeal is filed, the City Administrator's determination is final and the amount of tax assessed by the City Administrator is immediately due and payable.

### **Section 9. Appeal:**

- A. Any person aggrieved by any decision of the City Administrator with respect to the amount of tax, interest, and penalties owing under this ordinance, if any, may appeal to the City Council by filing a notice of appeal with the City Administrator within fifteen (15) days of mailing of the notice of the City Administrator's



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decision. The City Administrator shall fix a time and place for hearing the appeal, as prescribed by the City Council, and shall give the appellant fifteen (15) days written notice of the time and place of the hearing before the City Council. The notice of hearing shall be served personally or by deposit in the United States mail, postage prepaid, addressed to the appellant at the appellant's last known address.

- B. The appellant shall pay a nonrefundable appeal fee to facilitate the appeal. Appeal fees shall be set at \$150 for each decision appealed, and may be adjusted by Resolution of the City Council.
- C. The parties shall be entitled to appear personally and by counsel and to present such facts, evidence and arguments as may tend to support the respective positions on appeal.
- D. The City Council shall hear and consider any records and evidence presented bearing upon the City Administrator's determination of the amount due, and make findings affirming, reversing or modifying the determination.
- E. Informal disposition may be made of any appeal by stipulation, agreed settlement, consent order or default.
- F. The action of the City Administrator shall be stayed pending the outcome of an appeal properly filed pursuant to this section.
- G. Failure to strictly comply with the applicable appeal requirements, including but not limited to the required elements for the written notice of appeal, time for filing of the notice of appeal, and payment of the applicable appeal fee, shall constitute jurisdictional defects resulting in the dismissal of the appeal.
- H. The findings of the City Council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found by the City Council to be due shall be immediately due and payable upon the service of notice.

### **Section 10. Refunds:**

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this ordinance, it may be refunded as provided in subparagraph (1) of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the City Administrator



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within one year of the date of the payment. The claim shall be made on a form furnished by the City Administrator.

- B. The City Administrator shall have twenty (20) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The City Administrator shall notify the claimant in writing of the City Administrator's determination. Such notice shall be mailed to the address provided by the claimant on the claim form. In the event a claim is determined by the City Administrator to be a valid claim, in a manner prescribed by the City Administrator a claimant may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The claimant shall notify the City Administrator of the claimant's choice no later than fifteen (15) days following the date City Administrator mailed the determination. In the event the claimant has not notified the City Administrator of the claimant's choice within the fifteen (15) day period, the claimant is a seller, and the claimant is still in business, a credit will be granted against the tax liability for the next reporting period. If the claimant is a seller and is no longer in business, a refund check will be mailed to the claimant at the address provided in the claim form.
- C. No refund shall be paid under the provisions of this section unless the claimant established the right to a refund by written records showing entitlement to such refund and the City Administrator has acknowledged the validity of the claim.

### **Section 11. Actions to Collect:**

Any tax required to be remitted by any seller under the provisions of the ordinance shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been remitted to the City shall be deemed a debt owed by the seller to the City. The City may bring an action in the name of the City of Brownsville in the courts of this state, another state, or the United States to collect the amount of tax due and owing as well as any penalties and interest. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing a reasonable fee to compensate the City for payment of the collection agency's fees.

### **Section 12. Confidentiality:**

Except as otherwise required by law, the City shall endeavor not to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this ordinance. Nothing in this section shall prohibit:





## ORDINANCE NO. 750

- A. The disclosure of the names and addresses of any person who is operating a licensed or registered establishment from which marijuana is sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- C. Presentation of evidence to a court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the City Administrator or an appeal from a determination by the City Administrator for amount due the City under this ordinance; or
- D. The disclosure of information when such disclosure of conditionally exempt information is order under public records law procedures; or
- E. The disclosure of records related to the failure by a seller to report and remit the tax for regulatory, collections, or enforcement purposes. The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

### **Section 13. Audit of Books, Records or Persons:**

- A. It shall be the duty of every seller liable for the collection and payment to the City of any tax imposed by this ordinance to keep and preserve, for a period of three years, all records, books, reports, income tax reports, and other matters required by this ordinance as may be necessary to determine the amount of such tax as the seller may have been liable for the collection of and payment to the City, which records the City Administrator shall have the right to inspect upon request. Every seller shall maintain records of marijuana purchases and sales, accounting books, and records of income. Sellers must, at a minimum maintain a cash receipt and deposit journal and a cash disbursements journal/check register for all authorized deductions. These records and books shall reconcile to the tax reports and be auditable. If the City Administrator finds the books and records of the seller are deficient in that they do not provide adequate support for tax reports filed, or the seller's accounting system is not auditable, it shall be the responsibility of the seller to improve its accounting system to the satisfaction of the City Administrator.
- B. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and



## ORDINANCE NO. 750

federal income tax return, bearing upon the matter of the seller's tax reports. All books, invoices, accounts and other records shall be made available within the City limits and be upon request for examination by the City Administrator or authorized agent of the City Administrator. If any seller refuses to voluntarily furnish any of the foregoing information when requested, the City Administrator may immediately seek a subpoena from the Brownsville Municipal Court to require that the seller or a representative of the seller attend a hearing or produce any such books, accounts and records for examination.

### **Section 14. Penalties:**

- A. It is unlawful for any seller or any other person so required to fail or refuse to furnish any report required to be made, or fail or refuse to furnish the supplementary report or other data required by the City Administrator or to enter a false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this ordinance.
- B. Violation of any provision of the ordinance shall be punishable by every day in which the violation is caused or permitted to exist constitutes a separate infraction, and the punishment therefore shall be in addition to any other penalty, interest, sum or charge imposed by this ordinance. Delinquent taxes and fees, penalty and interest imposed by this ordinance may be collected in a civil action.
- C. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

### **Section 15. Forms and Regulations:**

- A. The City Administrator is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of reports, the ascertainment, assessment and collection of the tax imposed by this ordinance, and in particular and without limiting the general language of this ordinance, to provide for:
  - 1) A form of report on sales and purchases to be supplied to all sellers;
  - 2) The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this ordinance.

**Section 16. Severability:** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause



**ORDINANCE NO. 750**

shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**Section 17. Savings:** Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**Section 18. Effective Date:** This ordinance shall take effect on the 30<sup>th</sup> day after adoption by the Council and signature by the Mayor.

**PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR** as an emergency this \_\_\_\_ day of November, 2014.

**Attest:**

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

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

# PROCLAMATION

## A PROCLAMATION RECOGNIZING & CONGRATULATING

**Donnie & Deb Nealon**

### ON IMPROVEMENTS TO THEIR LOCATION AT 105 E. BISHOP WAY

**WHEREAS**, the City of Brownsville would like to recognize Mr. & Mrs. Nealon for their reinvestment and personal achievements in Brownsville; and

**WHEREAS**, the Nealons provide a vital service for the citizens of the area; and

**WHEREAS**, the Nealons recently completed the remodeling of their service station at 105 E. Bishop Way; and

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

Thank you for your commitment and continued service to  
Brownsville and Central Linn!

**ATTEST:**

**APPROVED:**

S. Scott McDowell  
City Administrator

Don Ware  
Mayor

Nan Van Sandt, Council President

Mandy Cole

Gary Shepherd

Lynda Chambers

Rob Boyanovsky

Carla Gerber

## **Medical and Recreational Marijuana – Important Dates**

- November 4, 2014:** Vote on Measure 91
- December 4, 2014:** Measure 91 takes effect
- April 30, 2015:** Cities’ moratoria on medical marijuana dispensaries expire
- July 1, 2015:** Operative provisions of Measure 91 take effect – it is legal to grow and possess homegrown marijuana
- January 1, 2016:** OLCC rules for licensees become effective
- January 4, 2016:** OLCC begins taking license applications and issuing licenses
- July 1, 2017:** Cities’ portion of state-shared marijuana tax revenue based on number of licensed premises in the City instead of population

Oct. 2014  
 Medical Marijuana  
 Taxing Data

City	Medical Tax	Recreational Tax	add'l info	Passed
Ashland	5%	10%		x
Coquillee	5%	10%		x
Cornelius	0%	10%		x
Dayton	0%	10%		x
Fairview	15%	40%		x
Forest Grove	0%	10%		x
Gold Hill	5%	10%	curr rec \$100 per day	x
Happy Valley	10%	10%		x
Hillsboro	5%	10%		
Independence	0%	10%		x
Keizer	0%	10%		
LaGrande	0%	25%		x
Lane County	0%	0%		
Medford	6%	18%		
Milwaukie	0%	10%		x
Nehalem	5%	10%		x
Newberg	5%	10%		x
Oakridge	5%	10%		x
Scappoose	10%	20%		
Sherwood	0%	10%		x
Springfield	5%	10%		
St. Helens	10%	20%		
Troutdale	5%	10%		x

**From:** Bill Elliott [bellott@cityofestacada.org]  
**Sent:** Thursday, October 16, 2014 7:20 PM  
**To:** Oregon City/County Management Association  
**Subject:** Re: [occma] Medical Marijuana Declaratory Judgment Update

Way to be out in front Ryan. Kudos to Cave Junction.

Bill Elliott  
Estacada

This message has been Sent from my iPhone so please excuse any typos created by this small keypad.

On Oct 16, 2014, at 16:38, "Ryan Nolan" <[cityofcj@cavenet.com](mailto:cityofcj@cavenet.com)> wrote:

Some of you might have heard that the City of Cave Junction sought declaratory judgment from the State of Oregon regarding the Oregon Medical Marijuana Act. There were essentially two questions asked. One, did the law as written actually preempt Cities rights related to regulation of dispensaries. And two, did the federal controlled substances act preempt the state law. Today, the circuit court ruled that the medical marijuana act did not preempt a Cities right to regulate or even ban dispensaries. The court stated that because of this finding they did not address the issue of preemption by the federal controlled substances act.

Just an interesting piece of this issue I thought I'd share.

Ryan L. Nolan, Recorder  
City of Cave Junction  
541-592-4529

*"This message may contain confidential and/or proprietary information, and is intended for the person/entity to which it was originally addressed. If you have received this email in error, please contact the City and then shred the original document. Any use by others is strictly prohibited."*

**From:** Michael Landi [michaelalandi@gmail.com]  
**Sent:** Thursday, October 16, 2014 1:13 PM  
**To:** S. Scott McDowell  
**Subject:** Re: Petition for Mach Election

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

I agree

On Thu, Oct 16, 2014 at 12:13 PM, S. Scott McDowell <[admin@ci.brownsville.or.us](mailto:admin@ci.brownsville.or.us)> wrote:

Good Morning Michael,

I am aware of Section 42 and 58 that aim to ban cities and counties from taxing marijuana. I am also aware that many cities are trying to get a tax measure passed that is directly in opposition to that aim. Again, the cities and counties are trying to take a stand for local control - which is a State Constitutional matter. For decades, the State legislature and Federal government have pre-empted and mandated public policies that have costs local governments' uncountable dollars to comply with those unfunded mandates and requirements.

I personally think any local taxes will be stricken down by the State if Measure 91 passes. To me, the language is clear in the Measure. The other political consideration for Council, however, is what happens if the State decides to allow the tax measures that were enacted prior? Council would look foolish if they had an opportunity to reasonably tax marijuana and did not.

Again, the City is being put in a precarious position due to the lack of information and certainty. I understand the concern you expressed when we talked - taxing can drive the cost up to where the black market wins. I think that will certainly be a point of emphasis for the State, should Measure 91 pass.

Thanks for your thoughts!





**S. Scott McDowell**

*255 N. Main Street*

*P.O. Box 188*

*Brownsville, OR 97327*

*541.466.5880*

*Fax 541.466.5118*

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**From:** Michael Landi [mailto:[michaelalandi@gmail.com](mailto:michaelalandi@gmail.com)]

**Sent:** Thursday, October 16, 2014 8:45 AM

**To:** S. Scott McDowell

**Subject:** Re: Petition for Mach Election

Scott,

I just want to Thank You for allowing me to work with you and try to keep Brownsville moving forward. It was announced that Portland is imposing a 10% tax on rec marijuana and no tax on medical, just in case they can be grandfathered in. This was on the news yesterday. I have faith that your belief in ,that no municipality will have the authority to impose a tax due to the wording in Measure 91 which gives all control to the State.

Thanks

Michael

On Tue, Oct 7, 2014 at 12:38 PM, S. Scott McDowell <[admin@ci.brownsville.or.us](mailto:admin@ci.brownsville.or.us)> wrote:

Good Afternoon Michael,

I have you down for 10:00 a.m. on Thursday. Thanks!



**S. Scott McDowell**

*255 N. Main Street*

*P.O. Box 188*

*Brownsville, OR 97327*

*541.466.5880*

*Fax 541.466.5118*

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**From:** Michael Landi [mailto:[michaelalandi@gmail.com](mailto:michaelalandi@gmail.com)]

**Sent:** Monday, October 06, 2014 5:29 PM

**To:** S. Scott McDowell

**Subject:** Re: Petition for Mach Election

Scott,

Thank you and what time on Thursday?

On Sun, Oct 5, 2014 at 10:49 AM, S. Scott McDowell <[admin@ci.brownsville.or.us](mailto:admin@ci.brownsville.or.us)> wrote:

Good Morning Michael,

I would love to sit down with you and discuss this matter further. I am just returning from a vacation. How does Thursday morning work for you?



**S. Scott McDowell**

*255 N. Main Street*

*P.O. Box 188*

*Brownsville, OR 97327*

541.466.5880

Fax 541.466.5118

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**From:** Michael Landi [mailto:[michaelalandi@gmail.com](mailto:michaelalandi@gmail.com)]  
**Sent:** Tuesday, September 30, 2014 10:35 AM  
**To:** [admin@ci.brownsville.or.us](mailto:admin@ci.brownsville.or.us)  
**Subject:** Re: Petition for Mach Election

I look forward to meeting with you to discuss the petition formalities that will be generated for the citizens of the City of Brownsville.

Thank You

On Tue, Sep 30, 2014 at 10:29 AM, <[admin@ci.brownsville.or.us](mailto:admin@ci.brownsville.or.us)> wrote:

I will be out of the office September 26 through October 3, 2014. I will get back with you upon my return.

Thanks!

S. Scott McDowell  
City Administrator

----- Original Message -----

> Scott/ City Administrator of The City of Brownsville.Oregon  
>  
> I need any/all information to get a petition started now for this March  
> 2015/ Brownsville City Elections. Elizabeth/City Hall gave me this e-mail  
> as a contact point.  
> I am the duly elected Linn Co/Democratic Party Committeeperson for  
> Precinct 75 Brownsville. It has been brought to my attention by numerous  
> citizens from Precinct 75 that they want a general vote on The Green Cross  
> Dispensary moratorium. As you are aware on 9-23-14 at the city meeting  
> which even the Mayor was taken back by the support in our community for  
> this LEGAL STATE LICENCED Facility. The community needs to support all of  
> its residents who are ill and given by the State of Oregon the choice to  
> use non Pharmaceuticals Alternative remedies to combat their illnesses and  
> not feel persecuted and looked in a negative way. At this point the  
> majority of LEGAL OMMP patients fell as second class citizens in a  
> community which looks down with personal malice on a community of citizens

- > who want control of there health and welfare. This will also create a
- > bigger tax base for the community. Our downtown is not generating enough
- > tax monies for the community it serves and this is an injustice to both
- > patients and fellow city residents.
- > As stated earlier WE THE PEOPLE of Brownsville want this put on this
- > upcoming election in March 2015.
- > I look forward to working with you to support our community on this LIFE
- > ALTERING Gift voted in and supported by the people of the our community,
- > county and state.
- >
- > Thank You
- > Michael Landi (541) 520-6757
- > Precinct 75 Committeeperson for the Democratic Party
- >

**WHEELS WHEN YOU WANT A "STUDY BREAK."**  
 PORTLAND, JOIN NOW AND SAVE \$10

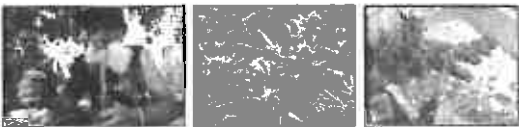


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# Measure 91: Cities pre-emptively taxing pot seek safety in numbers



Poll: Nationwide marijuana legalization inevitable

*Kimberly A.C. Wilson | [kwilson@oregonian.com](mailto:kwilson@oregonian.com) (<http://connect.oregonlive.com/user/kwilson/photos.html>)*



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[/measure\\_91\\_cities\\_preemptive.html](http://blog.oregonlive.com/washingtoncounty_impact/print.html?entry=/2014/10/measure_91_cities_preemptive.html))



(<http://connect.oregonlive.com/staff/ikullgren/index.html>) By [Ian K. Kullgren](#) |

[ikullgren@oregonian.com](mailto:ikullgren@oregonian.com) (<http://connect.oregonlive.com/staff/ikullgren/posts.html>)

Email the author | Follow on Twitter (<https://twitter.com/IanKullgren>)

on October 07, 2014 at 8:28 AM, updated October 07, 2014 at 7:27 PM

Positioning themselves for a monumental showdown with the state, a growing number of cities and towns in Oregon are racing to impose local taxes on recreational marijuana before next month's vote on whether to legalize the drug.

Last week, **Hillsboro joined nearly 30 municipalities**

(<http://www.oregonlive.com/hillsboro/index.ssf/2014/09>

[/legal\\_marijuana\\_hillsboro\\_fall.html](http://www.oregonlive.com/hillsboro/index.ssf/2014/09/legal_marijuana_hillsboro_fall.html)) that have approved or are considering taxing legal pot, despite language in Measure 91 aimed at preventing exactly that. The hope is to pressure state lawmakers into amending the law, if it passes, to allow local governments to levy additional sales taxes — otherwise, cities will find themselves waging an uphill battle in court, legal experts say.

One thing is certain: There will be a legal fight if voters approve legal marijuana. It's just a question of where.

Section 42 of **Measure 91**

(<http://voteyeson91.com/wp-content/uploads/2014/06/053text.pdf>) states: "No county or city of this state shall impose any fee or tax ... in connection with the purchase, sale, production, processing, transportation, and delivery of marijuana items." Section 58 takes it a step further: "(the state law) shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it."

## MARIJUANA LEGALIZATION IN OREGON

**Portland keeps 10 percent tax on recreational marijuana, ditches medical marijuana tax option** ([http://www.oregonlive.com/portland/index.ssf/2014/10/portland\\_keeps\\_10\\_percent\\_tax.htm](http://www.oregonlive.com/portland/index.ssf/2014/10/portland_keeps_10_percent_tax.htm))

**Marijuana legalization: 'Each state has its own challenges,' says Washington Attorney General Bob Ferguson** ([http://www.oregonlive.com/marijuana/index.ssf/2014/10/washington\\_attorney\\_general\\_bo.htm](http://www.oregonlive.com/marijuana/index.ssf/2014/10/washington_attorney_general_bo.htm))

**Recreational marijuana tax could mean up to \$4 million annually for city: Portland City Hall Roundup** ([http://www.oregonlive.com/portland/index.ssf/2014/10/recreational\\_marijuana\\_tax\\_wou.htm](http://www.oregonlive.com/portland/index.ssf/2014/10/recreational_marijuana_tax_wou.htm))

**Measure 91: Cities pre-emptively taxing recreational pot seek safety in numbers** ([http://www.oregonlive.com/washingtoncounty/index.ssf/2014/10/measure\\_91\\_cities\\_preemptive.html](http://www.oregonlive.com/washingtoncounty/index.ssf/2014/10/measure_91_cities_preemptive.html))

**Now is time to say no** ([http://blog.oregonlive.com/myoregon/2014/10/now\\_is\\_time\\_to\\_say\\_no.html#incart](http://blog.oregonlive.com/myoregon/2014/10/now_is_time_to_say_no.html#incart))

**All Stories** ([http://topics.oregonlive.com/tag/marijuana\\_legalization/posts.html](http://topics.oregonlive.com/tag/marijuana_legalization/posts.html)) | **All Photos** (<http://topics.oregonlive.com/tag/marijuana>)

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**Weekly**

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Measure 91: Cities pre-emptively taxing recreational pot seek s...

<http://www.oregonlive.com/washingtoncounty/index.ssf/2014/09/09/legislation/photos.html> | [All Videos \(http://topics.oregonlive.com/tag/marijuana-legalization/videos.html\)](http://topics.oregonlive.com/tag/marijuana-legalization/videos.html)

Even so, the list of localities seeking to impose their own taxes keeps growing by the week. The issue has received even more attention as Portland and larger cities in Washington County are weighing such proposals.

<http://www.oregonlive.com/washingtoncounty/index.ssf/2014/09/09/legislation/photos.html> | [All Videos \(http://topics.oregonlive.com/tag/marijuana-legalization/videos.html\)](http://topics.oregonlive.com/tag/marijuana-legalization/videos.html)



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<http://argus/>

Leaders in Forest Grove **passed a 10 percent recreational marijuana tax on Sept. 22** (<http://www.oregonlive.com/forest-grove/index.ssf/2014/09/marijuana-tax-forest-grove-imp.html>), and officials in Cornelius, Lake Oswego and Oregon City approved similar ordinances this past week.

To the east, Oregon City has approved a tax, and officials Gresham, Troutdale and Fairview are considering following suit.

And on Tuesday, Portland city commissioners said **they too would consider a 10 percent sales tax** (<http://www.oregonlive.com/portland/index.ssf/2014/10/portland-could-vote-next-week.html>), a noteworthy gain for local officials across the state seeking to profit from legal pot.

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Many, including officials in Hillsboro, are angling to be grandfathered into the law by the state Legislature if Ballot Measure 91 takes effect next year.

"If [Measure 91 is] passed, the state has the sole taxing authority, so from a legal perspective, there was an interest in getting our council this option ahead of that," said Hillsboro city spokesman Patrick Preston said prior to the vote.

Some attorneys representing city governments contend the measure's language, while seemingly clear-cut, oversteps the state's authority to regulate local laws. The argument reaches back to Home Rule, a longstanding legal principle in Oregon and elsewhere that protects localities' right to govern themselves.

The latest u  
cycling arou  
greater Port  
<http://www>

"The city has the authority to do what it wants as long as it's constitutional, unless there is a clear statutory prohibition," said David Lohman, the city attorney for Ashland, which in August became the first city to approve a tax.

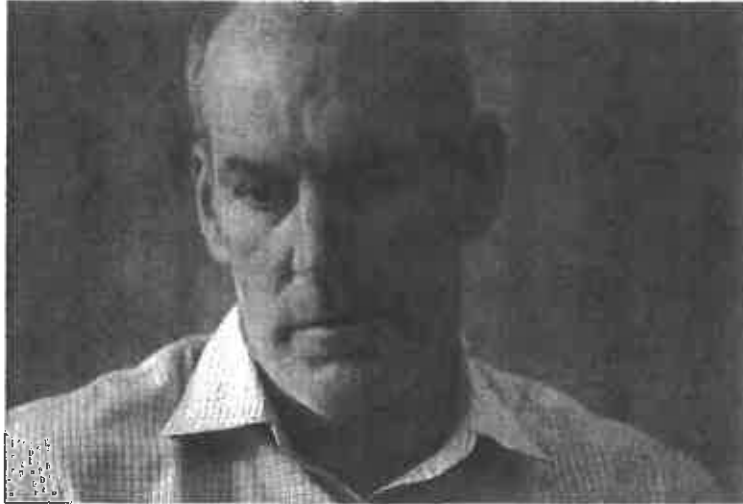
Because there is no state law to contradict — at least not yet — the local taxes should be allowed to stay, Lohman said.

"I would hope the Legislature would make it very clear that what we enacted is allowed," Lohman said. "We don't want to have people battling in court about this. Let's make it very clear, by statute."

Photo

The measure's advocates aren't buying their reasoning.

"It seems like they're doing exactly what I think we pretty clearly intended couldn't be done," said Dave Kopilak, the chief drafter of Measure 91. "They just look around and what everyone else is doing and figure they need to do something before Election Day."



Portland attorney Dave Kopilak drafted Measure 91, which would legalize recreational marijuana in Oregon.

Measure 91's drafters copied the language of the two sections nearly verbatim from the state liquor code, Kopilak said, which prohibits municipalities from collecting local taxes on alcohol.

If the state Legislature refuses to grandfather these cities and towns, the next step would inevitably be a battle in court, legal experts say.

*Beth Nakamura/The Oregonian*

"This tees up pretty hardcore for a state versus local

government lawsuit," said Hilary Bricken, a Seattle-based recreational marijuana attorney. It would be a hard sell for the cities, she added, considering Measure 91 is so explicit in its intent.

Oregon's proposal gives state lawmakers more leverage to change pot laws than in those in Colorado or Washington. Colorado's ballot measure came in the form of a constitutional amendment, and Washington's requires a supermajority vote for any changes within the first two years.

Measure 91 contains no such restrictions, thus making the state legislature an obvious entry point for those seeking reform, said Leland Berger, a Portland marijuana attorney. If the proposal passes, lawmakers could change it during the next session.

"It's challenging to speculate on what the legislature may or may not do," Berger said. "They certainly have the legal authority to modify an issue, but I can tell you on both sides of the aisle, there's a certain respect for the will of the people."

Backers of Measure 91 intend for top-down control in order to keep prices low enough to compete with the black market. In return, 20 percent of the revenue collected by the state would be returned to local law enforcement.

The amount would be proportional to each place's population until 2017, after which it would depend on the number of dispensaries in each city or town: The more dispensaries, the greater the tax revenue.



(<http://photo/2014/10/gubernatori>)

**Gubern  
John K  
Dennis  
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(<http://www>)



"I think localities should be really happy and realize the state is taking chunk of the money and giving it directly to them," said Tamar Todd, an attorney for the Drug Policy Alliance, which supports Measure 91.

Some local leaders, though, say a local tax is a way to deter marijuana sellers from moving in without having to wait for a local ballot measure, as the proposal would require.

"I want it to be a deterrent," Troutdale Mayor Doug Daous **said at a city council meeting (<http://www.oregonlive.com/gresham/index.ssf/2014/09/as-east-multnomah-county-citie.html>)** last month. "I don't want to be the city that's attractive to the sales of marijuana."

But even fellow opponents of the measure agree a win for cities would be difficult if the issue ends up in court.

"The reason you see city councils scrambling to do it is a very thorny legal issue," Clatsop County District Attorney Josh Marquis, a leading opponent of marijuana legalization, said at a Washington County Public Affairs Forum debate Sept. 29. "I suspect your cities are going to spend hundreds of thousands of dollars each fighting this."

-- Ian K. Kullgren

*Luke Hammill of The Oregonian staff and Eric Apalategui contributed to this report.*

**Editor's note:** *This story has been changed from its original version to reflect an updated list of towns that have approved or are considering taxes on recreational marijuana, released Tuesday afternoon.*

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**<http://twitter.com/share?url=http%3A%2F>**

**From:** Rob Drake [rdrake@ci.cornelius.or.us]  
**Sent:** Wednesday, October 08, 2014 10:40 AM  
**To:** Oregon City/County Management Association  
**Subject:** RE: [occma] Marijuana

That's a scary possibility, Gary!!

---

**From:** Gary Milliman [mailto:gmilliman@brookings.or.us]  
**Sent:** Wednesday, October 08, 2014 7:34 AM  
**To:** Oregon City/County Management Association  
**Subject:** [occma] Marijuana

For those cities who are enacting a local tax on Marijuana sales:

Since marijuana is still illegal under federal law (I know the DOJ is looking the other way in enforcement for now), how does receiving revenue from the proceeds of an illegal activity square with all of those "promise to obey all laws" assurances we sign every time we accept federal grant funding? Has anyone checked? Could a federal agency require us to pay back the grant if an audit finds that we are receiving revenue from marijuana sales proceeds?

**Gary Milliman**  
City Manager  
City of Brookings  
898 Elk Drive  
Brookings, OR 97415  
541-469-1101 | Fax 541-469-3650



**From:** Nathan Cherpeski [NCherpeski@ci.klamath-falls.or.us]  
**Sent:** Wednesday, October 08, 2014 9:18 AM  
**To:** Oregon City/County Management Association  
**Subject:** RE: [occma] Marijuana

Gary,

That's a great and relevant question. While we are moving forward with a tax (I believe we will find we are preempted but that's a debate for another day) I have serious concerns about this and similar issues. We have a dispensary in town and he says no bank will work with him as his money is tied to illegal activity. He continues to run an all cash business. If the retail purveyors of marijuana pay us with these same funds (derived from illegal activity) would we be able to deposit those in our bank or would we be party to money laundering since we know where the money comes from? I was in Colorado before and to avoid this issue we simply banned marijuana in city limits. Colorado's constitutional amendment allowed cities and counties to opt out by council action. Measure 91 requires signature gathering and a vote by the people to ban. I now have employees asking, "if measure 91 passes, what would happen if I get hurt at work and I have to take a blood test per policy and it comes back positive for marijuana? My simple response is don't smoke it and you don't have to worry. Don't we all sign assurances that we are a drug free work place as part of our federal grants as well? At the end of the day, it's still illegal under federal law. What happens when the administration changes? Until the federal government takes a definitive stance one way or the other, we will all be stuck between a rock and a hard place.

Nathan Cherpeski  
City Manager  
City of Klamath Falls  
P.O. Box 237  
Klamath Falls, OR 97601  
(541) 883-5316

---

**From:** Gary Milliman [mailto:gmilliman@brookings.or.us]  
**Sent:** Wednesday, October 08, 2014 7:34 AM  
**To:** Oregon City/County Management Association  
**Subject:** [occma] Marijuana

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Gary Milliman  
City Manager  
City of Brookings  
898 Elk Drive  
Brookings, OR 97415  
541-469-1101 | Fax 541-469-3650



**From:** Chris Workman [Chris.Workman@ci.philomath.or.us]  
**Sent:** Wednesday, October 08, 2014 8:48 AM  
**To:** Oregon City/County Management Association  
**Subject:** RE: [occma] Marijuana

Our city attorney is also recommending the council not pass a local tax on marijuana as his opinion is that litigation is sure to follow if measure 91 passes. There are clear restrictions in the measure that deny local jurisdictions the ability to tax marijuana at the local level and repeal any previously imposed taxes –similar language as that found in the Alcohol Control Act. The Oregon Supreme Court has made exceptions, but only when the local tax was not narrowly imposed on a specific industry or product. No need to debate the merits of either argument here, just wanted to voice the reason for our council's reservation in jumping on the tax pot bandwagon and let other jurisdictions know that there is an argument for not passing a local tax.

Chris Workman  
City Manager  
541-929-6148

*"Never too busy to help."*



---

**From:** Gary Milliman [mailto:gmilliman@brookings.or.us]  
**Sent:** Wednesday, October 08, 2014 7:34 AM  
**To:** Oregon City/County Management Association  
**Subject:** [occma] Marijuana

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Gary Milliman  
City Manager  
City of Brookings  
898 Elk Drive  
Brookings, OR 97415  
541-469-1101 | Fax 541-469-3650

To The City of Brownsville.

Attention Brownsville City Council.

We request the City of Brownsville require all dogs be on a leash.

The Linn County Sheriff has informed us they could not help us because Brownsville does NOT have a leash law. Dog owners can use voice commands.

We are not comfortable with the voice commands. What if the dog does not obey, we do NOT want anyone hurt by a dog.

Children are scared of the dogs off leash not only in town but in the park dogs are running loose from the parking lot area thru the park.

A SCHOOL BUS DRIVER HAD TO KEEP THE CHILDREN ON THE BUS FOR THERE SAFTEY, until the dog and its owner were gone. This happened on more than one occasion. Traffic was also delayed.

The elderly have been bothered by dogs while in there yards working, and while getting some exercise.

Dogs are off leash running loose in our Brownsville Cemetery, we have to avoid the loose dogs while we are visiting our loved ones graves. While being careful not to step in the dog feces in the cemetery.

PLEASE LET US HAVE A LEASH LAW IN BROWNSVILLE.

Janet Dwyer Ed Putman Shannan Case  
Tonda E. Foy Alta B. B. Heather Dillon  
John M. Foy Kelly B. Hays Pam Swann  
Jha E. J. R. R. New Fred Anderson  
Drew Corbett Ven Hayes Marilyn Nelson  
Floyd Corbett Cindy Schubert Rick Dominguez  
Tom Chumma Karen Bowman Thera Wilton  
Janet Maddy Betty Joyce Keen  
Juni Maddox Carolyn Pearce

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PLEASE LET US HAVE A LEASH LAW IN BROWNSVILLE.

Robert E. Erbe  
Dorothy Erbe  
Conrad D. Oles  
Nicole Thener  
Russell [Signature]  
Mary Compton

**From:** Josh Metcalf [JoshM@WasteConnections.com]  
**Sent:** Monday, October 06, 2014 8:01 AM  
**To:** 'publicworks@ci.brownsville.or.us'  
**Cc:** Scott McDowell (admin@ci.brownsville.or.us)  
**Subject:** Brownsville Clean Up

Karl,

I wanted to thank you and your crew for your help at Saturday's clean up. Though the morning started slow, it wound up being a very busy day. We would not have been able to pull it off without your involvement. Your team is top notch, and a pleasure to work with.

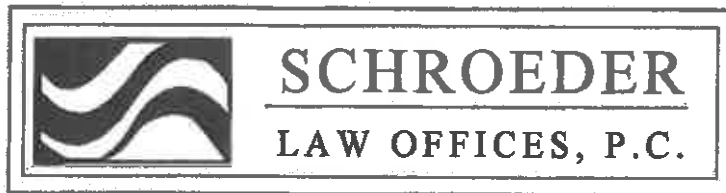
**Josh Metcalf**  
Site Manager  
541-936-0744



Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

Therese A. Ure  
Licensed in Oregon  
and Nevada

William F. Schroeder  
Of Counsel to the Firm



Sarah R. Liljefelt  
Licensed in Oregon & California

Wyatt E. Rolfe  
Of Counsel  
Licensed in Oregon & Washington

Matthew J. Curti  
Licensed in Nevada

Brian R. Sheets  
Licensed in Oregon

September 29, 2014

**VIA ELECTRONIC AND U.S. MAIL**

Oregon Water Resources Department  
Attn: Ann Reece  
725 Summer St., NE, Suite A  
Salem, Oregon 97301  
Email: [ann.l.reece@state.or.us](mailto:ann.l.reece@state.or.us)

**RE: City of Brownsville Extension Applications**

Dear Ann:

On behalf of the City of Brownsville, we are writing with respect to the City's current extension applications on file with the Department for S-47733 (App. 65273) and G-12406 (App. G-13221). In light of the Court of Appeals recent decision within the "Cottage Grove" case, the City requests that both applications be placed on administrative hold pending the outcome of the Cottage Grove's appeal to the Oregon Supreme Court.

As always, thank you for your professional courtesies. Feel free to contact me should you have any questions or concerns.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Wyatt E. Rolfe *for*

WER:

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

[www.water-law.com](http://www.water-law.com) [counsel@water-law.com](mailto:counsel@water-law.com)

(P0265653; 1181 DO WER)





Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

October 2, 2014

Wyatt Rolfe  
Schroeder Law Offices  
1915 NE Cesar E Chavez Boulevard  
Portland, OR 97212

RE: Pending Application for Extension of Time  
Permit G-12406 (Application G-13221)

Dear Mr. Wyatt:

The Department has received your request on behalf of the City of Brownsville to place the City's pending Extension of Time Application on administrative pending resolution of the Cottage Grove case. As per the City's request, the pending Application for Extension of Time for Permit G-12406 has been placed on administrative hold.

The hold request also included Permit S-47733 (Application S-65273). This is not being placed on hold because a Claim of Beneficial Use was received for this permit on October 22, 2012.

Sincerely,

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

Ann Reece  
Water Right Services Division

CC: File Appl G-13221  
File Appl S-47733






# Linn County Department of Health Services

P.O. Box 100, Albany, OR 97321  
Toll Free (800) 304-7468 TTY/Oregon (800) 735-2900  
www.co.linn.or.us/health

*"Working together to promote the health and well-being of all Linn County residents"*

## MEMORANDUM

**TO:** Board of Commissioners

**FROM:** Rick Partipilo 

**DATE:** September 24, 2014

**SUBJECT:** Outdoor Assembly Permit for 2014 BiMart Willamette Country Music Festival Event

The Board held an initial public hearing on the 2015/2016 BiMart Willamette Country Music Festival (BWC MF) permit application on May 20, 2014. In that application, the Applicant requested a two year permit with daily attendance in 2015 of 20,000 persons and in 2016 of 25,000 persons. The Board heard testimony of reviewing authorities, the applicant, persons in favor of the application, and persons opposed. The Board voted to leave the record open and continue the public hearing to September 24, 2014, which would allow the debriefings held after the 2014 event to inform their decision on the 2015/2016 permit application.

Today's hearing is the continuation of the May 20, 2014 hearing. Additions to the record received since the May 20 hearing were distributed to the reviewing authorities on September 19, 2014. They included letters from the Fire Chiefs of Brownsville and Lebanon districts discussing fire, ambulance, and EMT services, and an analysis of attendance records for the 2013 and 2014 events provided by the applicant. Additional documents were received this week (attached) have not been distributed to reviewing authorities. They include a letter from the Fire Chief of Sweet Home Fire and Ambulance District, a traffic count through Brownsville provided by Kaye Fox, and a memorandum by Robert Wheeldon to the Board regarding permit requirements for temporary structures used for the event.

After their 2014 event, the Applicant participated in debriefings with staff of the Linn County Sheriff's Office (LCSO), the Chiefs of Brownsville, Lebanon and Sweet Home fire and ambulance districts, and your author. LCSO staff found that the number of security calls was reduced from 2013 levels and that traffic flow on Highway 228 was improved compared to 2013. Fire, ambulance, and EMT services, including those provided on site, were able to handle the demand for services. A review of permit conditions by your author found that the Applicant met all permit conditions for the 2014 event.

#### Conditions and Recommendations by Staff and Reviewing Authorities for 2015:

- Staff to develop and bring before the Board in 30 days, a Resolution & Order issuing a permit for 2015 BWCMF for 20,000 daily attendance, including a list of all documents comprising the public record,
- Permit conditions to include:
  - All conditions from 2014 permit,
  - Approval of traffic plan by the City of Brownsville, as it may be amended,
  - Applicant to work with neighbors to mitigate traffic and other neighborhood impacts resulting from the event,
  - Prospective permit conditions relating to:
    - OLCC license, ODOT/Linn County road permits,
    - Traffic control and security services agreements,
    - Insurance coverage,
    - Agreements between applicant and LCSO, Fire, Ambulance and EMT services,
    - Sanitation, and
    - Other applicable requirements of Linn County Code Chapter 580.

Pursuant to Linn County Code Chapter 580.105, the organizer has applied for a permit to conduct two Level 3 outdoor assembly events; the first to be held August 13<sup>th</sup> through August 16<sup>th</sup>, 2015 with attendance of 20,000 persons, and the second to be held August 18<sup>th</sup> through August 21<sup>st</sup>, 2016 with attendance of 25,000 persons.

The decision criteria for Level 3 assembly applications are found in LCC 580.310(B)(4), specifically:

*“For level three assembly applications.*

After a hearing on a level three assembly application, the Board shall:

(a) approve the application if the applicant demonstrates compliance with or the ability to comply with the health and safety rules governing level three outdoor assemblies in LCC 580.430; or

(b) deny the application if the applicant is unable to demonstrate compliance with or the ability to comply with the health and safety rules governing level three outdoor assemblies listed in LCC 580.400 and 580.430.”

As with any public hearing, the Board has the option to continue the hearing at a later date.

Cc: Kevin Rogers  
Dave Barringer  
Dan Woodson  
Kevin Guilford  
Dan Dooley  
Frank Moore

Robert Wheeldon  
Darrin Lane  
Gene Karandy  
Ralph Wyatt  
Lynn Detering

Anne Hankins, Willamette Country Music Concerts, Inc.  
Karama Billick, Willamette Country Music Concerts, Inc.  
Don Leber, BiMart Corporation  
Lauren A. King, Leahy, Van Vactor, Cox & Melendy, LLP



## LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse

PO 100 Box, Albany, Oregon 97321

Phone 541-967-3816, Fax 541-926-2060, [www.co.linn.or.us](http://www.co.linn.or.us)

### MEMORANDUM

TO: Linn County Board of Commissioners  
FROM: Robert Wheeldon  
DATE: September 23, 2014  
RE: Recommended Condition for WCMF; Stages and Temporary Structures;  
Permit Required

I met with the County's new Building Official, Bill Clemens, to review the language in Condition No. 18 of the April 23, 2014 Resolution and Order No. 2014-117 (page 6, Condition 18) regarding permits for stages and temporary structures at the WCMF. In the past the WCMF has obtained permits for some temporary structures such as power poles and wireless facilities, but has not obtained permits for the stage or other temporary structures.

The Building Official has reviewed information regarding the WCMF stage, and the applicable State Building Codes for stages and other temporary structures, and concludes that permits are required. The Building Official and I therefore recommend that, to provide for the health, safety and welfare of all attendees and participants at the WCMF and other large outdoor gatherings, the language in Condition No. 18 be replaced with the following or similar language in future outdoor gathering permits:

"The Organizer shall meet with the Linn County Building Official at least 45 days prior to the establishment of any temporary structures on the property, and shall provide a site plan that identifies the locations and descriptions of stage(s) and other temporary structures so that the Building Official can establish permit requirements. Permits shall be obtained from the Linn County Planning and Building Department prior to establishing the structures on the property and all structures shall be inspected and approved by the Building Official prior to use."

The Building Official will attend the Wednesday, September 24, 2014 Board hearing on pending WCMF permits to answer any question you may have.

Sincerely,

Robert Wheeldon  
Director

**Partipilo, Rick**


---

**From:** Tucker, Will  
**Sent:** Monday, September 22, 2014 8:05 AM  
**To:** Wyatt, Ralph; Nyquist, Roger; Lindsey, John; Partipilo, Rick  
**Cc:** Anne Hankins (anne@willamettecountrymusicfestival.com); Anne Hankins  
**Subject:** FW: traffic on 203 Kirk Avenue during festival 2014  
**Attachments:** Music Festival Stats 2014.wps

2<sup>nd</sup> message... Still can't open email. Will

**From:** Kaye Fox [mailto:kfox003@centurytel.net]  
**Sent:** Sunday, September 21, 2014 8:51 PM  
**To:** Tucker, Will  
**Subject:** traffic on 203 Kirk Avenue during festival 2014

Hi Will: Libby Tennabush my neighbor would like to hear from Step. Would you ask her to email her? Thanks, Kaye

The attached speaks for itself. I am running for mayor, if that one hadn't made its way to the commissioners. That said I have concerned for the future with my home now on a designated route from the north.

- We saw 2,700 vehicles from thur thru sun.
- a 3,000 increase this year
- a 3,000 increase next year
- a cap at 25,000 max when not sure?

This is a city residential street, two lane with no up keep in the 10 years we have been here. Have be promised and put back on the shelf every two to three years. That I can deal with because nothing will happen with no money to do it.

I realize this is a five day event, during the hottest time of the month. These are for the most part older homes, who depend on opening during the night. Those to we will deal with for the benefit of the city of Brownsville.

There is your sticking point, has anyone spoken with the merchants who opened and stayed open to accommodate the festival folks. I am friends with the owner of the video liquor store. She made \$138.00 on her inventory, which is items not control ob OLCC. If you ask other businesses, I don't know about them. We know have no bank and another store closing their doors.

The festival I was told had 200 vendors, which can account for the lack of activity here, plus the heat but that is the time of the year. Officially I am not in office nor have I started to campaign. Another 7,000 in attendance what will it do to this community. The ones making money are those surrounded in the compound. More land owners on board which means more for them.

Dari Mart stayed open until 2:00 am and I didn't like that and none of my neighbors liked it also. The liquor store could have but that isn't what this was all about. The businesses were here to serve their community.

I honestly don't know what the answer is as I am friends with Warren and I feel he was stabbed in the back by Anne and Bi-Mart. If marijuana because legal there will be no control with anything this state tries to do.

I like the concept when Warren tried to start this festival, I don't think his intention was for it to be something like it has turned into today. I would like this to be kept between and if I am elected mayor I will rethink how I respond but only rethink. I can't say I would change my thinking. I appreciate what you and the other two do to keep control on something that could really blow up depending with the Nov 4th elections.

If I can be of any help, please don't hesitate to let me know. Sincerely, Kaye Fox



**STATS TAKEN DURING MUSIC FESTIVAL WEEKEND 2014**

Our home is at 203 Kirk Avenue

Thursday 8/14 arrival Friday 8/15 arrival Sunday 8/16 Leaving

2-3 pm 85 Noon-1 pm 212 7:00 pm-11:30 pm 371

3-4 pm 95 1-2 pm 191 speeders

4-5 pm 104 2-3 pm 238

5-6 pm 75 3-4 pm 246

6-7 pm 83 speeders 4-5 pm 191

7-8 pm 51 5-6 pm 210

6-7 pm 210

Total 493 7-8 pm 161

8-midnight 157

Total (12 hrs) 1816

These 3 totals come 2,680 vehicles --- with approx 265 being motor homes.

There were Motor Homes during these days and are included in above totals.

Thursday from 1-8 pm 143

Friday from Noon - Midnight 122

Total 265

There was no traffic to speak of on Monday 8/17. Later we found out that motor homes and big rig traffic used Hwy 228. Those who lived off 228 considered side traffic said there was no flagger on Monday morning. They would like to request that so they too are given the opportunity to get out onto 228. I encountered this when I went back to school at Central Linn Elementary School in Halsey.

# **Sweet Home**

## **Fire & Ambulance District**

September 19, 2014

Roger Nyquist  
Rick Partipilo

RE: Increase in attendance of WCMF to 20,000.

Dear Sirs:

We, the Sweet Home Fire and Ambulance District, will continue to support the Willamette County Music Festival with the increase in attendance to 20,000. SHFAD will do its part in providing adequate staffing and attending future meetings with the WCMF staff and the other EMS providers to assist in coordination of medical coverage for the 2015 event.

Sincerely,

Dave Barringer  
Fire Chief

1099 Long Street, Sweet Home, Oregon 97386  
Phone (541) 367-5882 FAX (541) 367-7265  
Website: [sweethomefire.org](http://sweethomefire.org)



**From:** Keren Levine [kereno.brownsville@gmail.com]  
**Sent:** Sunday, October 12, 2014 8:21 AM  
**To:** Don Ware; S. Scott McDowell; Linda & Ray McCormick  
**Subject:** FB site

There is growing communication on the FB site regarding the FCC's decision regarding our local news source. I am copying my response here FYI.

Questions: Can you recommend a way for us to conduct a formal survey? Who might do it? At what cost? Is that something the Bville Fdn. might fund? What alternative source of funding might there be? Is there a volunteer source? (UO/OSU graduate student project)? Can somebody take the ball to the next level?

Here's my FB reply:

My understanding is that Nielsen provides the marketing survey to the FCC by assessing which channels we watch. I pointed out to them that we don't have a choice. They suggested the following:

"In the past, satellite companies provided exemptions or exceptions for subscribers whose zip codes were on the border of Nielsen DMA definitions to ensure subscribers receive the most appropriate local broadcast stations.

"If you would prefer to receive different local stations, we can recommend the following avenues to address your concerns:

- Contact the FCC. The FCC website ([www.fcc.gov](http://www.fcc.gov)) has information on STELA which includes details on how to qualify as an "unserved household" and be eligible for a possible exemption.
- Contact your local Congress member, make them aware of your plight and request their assistance in ensuring you receive the appropriate local broadcast stations.
- Contact the local cable operator in your community to find out if they offer the local broadcast stations you wish to receive for your zip code. This may provide some leverage when speaking with your satellite provider.
- Alert local officials who may be able to assist you in requesting the satellite company provide an exemption for a group of residents living in a specific area."

A united effort is, of course, stronger than any of our complaints as individuals. I think a formal survey providing hard data would give the necessary push. I don't know who has the resources to do this. (They can be expensive and time consuming.)

Secondly, if we are successful in making our local TV stations available, those who prefer Portland for their state news may be disgruntled in the other direction. Perhaps the survey could address that issue as well.

--end of my post--

On Sat, Oct 11, 2014 at 10:13 PM, Linda Lewis McCormick <[notification+zddervfz@facebookmail.com](mailto:notification+zddervfz@facebookmail.com)> wrote:

Linda Lewis McCormick mentioned you in a comment in [Central Linn Classified Ads - For Sale, Trade, Help Wanted, Announcements](#).



**Linda Lewis McCormick**

10:13pm Oct 11

Keren Levine has been talking to our mayor and city administrator about this. It would be nice if there was a united plan for all of us to use.

Comment History



**Krystal Wellhouser**

10:00pm Oct 11

Yes this should be changed. Please-



**Diane Belcher Remior**

8:30pm Oct 11

It all controlled by the FCC, I only know this because I asked our satellite guy about why we had to have Portland channels. It's all about what county you are in. Maybe if enough of us got together. ....



**Gini Bramlett**

7:37pm Oct 11

It has to do with a contract with the communications system I believe.



**Linda Lewis McCormick**

5:22pm Oct 11

I really want both. If they can do it for cable viewers they should be able to do it for satellite. I know people who don't want to give up the Portland station in any case!



**Rick Krause**

5:10pm Oct 11

The digital antena is line of sight. We live in a digital TV free zone. Zero, zip, zilch, nada

[View All Comments](#)

Original Post



**Rick Krause**

8:56am Oct 11

I think is WRONG that Linn County residents with satellite TV are forced to watch the Portland stations as "local" . Benton county gets Eugene stations. I think it has to do with \$\$\$ . Albany news and weather is usually ignored in PDX. Many local people work in Eugene, not so much Portland. One can get around it by moving your mailing address to Eugene and reprogramming your receivers, but it takes lying which is always a slippery slope



[View Post on Facebook](#) · [Edit Email Settings](#) · [Reply to this email to add a comment.](#)

--  
**Keren Levine**  
PO Box 401  
Brownsville, OR 97327

[kereno.brownsville@gmail.com](mailto:kereno.brownsville@gmail.com)



[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

October 13<sup>th</sup>, 2014

**Mr. John Fox**  
710 Calapooia Avenue  
P.O. Box 276  
Brownsville, OR 97327

Dear Mr. Fox,

Thank you for your service to our country. Thank you for playing a major role in providing the freedoms that we enjoy every day. Your courage and self-sacrifice are hallmarks of what makes us all proud to be Americans. You are a true hero and patriot for making those choices, for fulfilling your service and for your unflinching willingness to face great danger.

We can never sing your praises enough, or truly understand the significant achievements you have made in service to the United States. We do want you to know that we share an undying gratitude for you and the other service men and women. Our debt can never be repaid. Thank you.

Sincerely,

  
Don Ware  
Mayor

October 16<sup>th</sup>, 2014

**Ms. Alex Phillips**  
Oregon Parks & Recreation Department  
725 Summer Street NE, Suite C  
Salem, OR 97301

Dear Ms. Phillips,

The City of Brownsville would like to express our support for the Santiam-Calapooia Scenic Bikeway proposal. The City has been a part of the Willamette Valley Bicycle Scenic Bikeway since its inception which has brought many cyclists through town. The City is excited to be a place for cyclists to stop, rest, relax and eat. The City has also been able to host multiple cycling events due to the increased focus and emphasis the State has put on cycling in general.

Council fully understands the positive, economic impact this opportunity will have on town. Area residents have gotten used to hosting events for the cycling community and given our terrain, it seems to be a natural fit for cyclists of all skill levels. Adding the 72.6 miles through part of East Linn County would be a beautiful experience for those cyclists the State is already serving. Santiam Spokes Incorporated has been tremendous partners here in Brownsville hosting cyclists for their annual Strawberry Tour in town for several years.

We are thankful to be a part of Oregon's first scenic bikeway and excited about the possibility of adding to this important asset. If you should have any questions, please contact me at your convenience.

Cordially,

**S. Scott McDowell**  
Administrator

c: Council  
File



# Friends of the Brownsville Community Library

c/o 146 Spaulding Avenue  
P.O. Box 68  
Brownsville, OR 97327

Sandy Sayer, President  
Gini Bramlett, Vice President  
Keren Levine, Treasurer  
Sherri Lemhouse, Secretary

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October 7, 2014

Mr. S. Scott McDowell  
Brownsville City Administrator  
PO Box 188  
Brownsville OR 97327

RE: *Library Flooring Project*

Dear Scott,

Enclosed please find a check in the amount of \$3,300 from the Friends of the Brownsville Community Library. We are pleased to contribute monies towards the recent Library flooring project. It turned out very nice and patrons and staff appreciate the update very much.

Thank you for helping to keep our Library a hub in the City of Brownsville. If you have any questions, please contact me.

Yours truly,

Sherri Lemhouse  
Secretary

Enclosure

# The Risky Business of Employment Trials

**T**aking employment cases to trial is a risky proposition, not just for CIS member cities, but for any employer. Consider this: since 2011, CIS has taken six employment cases to trial and has “won” only three. While that sounds low, it’s actually the norm.

A 2008 research project, “Let’s Not Make a Deal: An Empirical Study of Decision Making in Unsuccessful Settlement Negotiations,”<sup>1</sup> examined 139 employment cases and found defendants won just 51 percent of the time. In contrast, CIS members have “won” 79 percent of trials on non-employment liability issues since 2011.

The risks of a trial are also financial. The average verdict against CIS members is \$700,000, over and above the average cost of \$150,000 for a legal defense. That tracks with the average \$703,000 award in the 139 employment cases in the 2008 study.

## Why It’s Hard to Win

What makes it so difficult to win employment cases? Many times the answer may be in the makeup of the jury, and the attitudes and prejudices jurors bring to a trial. A jury is supposed to be a “of your peers,” yet this is rarely the case when a trial pits an employee against a supervisor or manager. One would think that to be perfectly fair, the jury should be made up of 50 percent employees and 50 percent business owners, manager and supervisors. The problem starts during jury selection, when the judge generally asks if anyone will have a problem serving the five to seven days necessary to hear the case. The business owners, managers and supervisors are more likely to ask and to be excused because of the hardship to their business or organization. The plaintiff’s attorney may then use peremptory challenges to remove additional business owners, manager and supervisors. CIS typically will end up with a jury that is made up of 70 to 80 percent rank-and-file employees, who bring to trial their own experiences, attitudes and prejudices regarding supervisors and managers.

Jury Impacts, Inc., a national consulting firm on jury behavior, reports that jurors who have had a negative experience would like the opportunity to right that wrong. This means any juror-employees who feel that they were slighted or mistreated by a supervisor have more of a tendency to support the employee who has been “wronged.” When asked this question,



## Average legal costs of litigated employment claim = \$150,000

40 percent strongly agreed or somewhat agreed that they would like to “right a wrong” and only 30 percent were not sure. Jury Impacts, Inc. also notes 69 percent of likely jurors believe that if a case makes it to trial, the plaintiff’s complaint must have some merit.

All of these factors contribute to the process of deciding what claims should be tried. There isn’t a handbook on what will win and what will lose, especially given the unpredictability of jurors.

## What Can Help

The chances of prevailing in a trial can be significantly increased if an employer is able to tell a solid, truthful story with credible and likeable witnesses in a manner that is relevant to the jury. Jurors need to believe that the employee was given reasonable chances to be successful, but did not succeed as a result of his/her own actions or behaviors. Jurors have to believe the employee was treated fairly and dispassionately and that there was no ulterior motive behind the discipline or termination.

Of course, to be able to tell that story, the employer must have documentation that supports the facts. And, in employment cases, timing is everything. If there are “bad” facts (a sexually provocative or age-related comment from a supervisor, a harassment report or OSHA complaint from the employee) near the time of the disciplinary action, it will be very difficult to convince a jury that this was not a substantial factor in the employer’s decision. Once a claim is made, it’s critical to share all of the facts early in the investigation, so a determination can be made about whether the case is a candidate for early settlement attempts. For CIS members, the best defense is a good offense, and that means working closely with a CIS pre-loss attorney early and often. ■

<sup>1</sup> By Randall L. Kiser, Martin A. Asher, and Blakeley B. McShane, *Journal of Empirical Legal Studies*, Volume 5, Issue 3, 551–591, September 2008

# The High Cost of Litigation

To say that a lawsuit is expensive is a great understatement. Many factors drive up the cost of a lawsuit.

## Availability of Legal Counsel

According to *U.S. News and World Report*, the average cost of a law school education is now \$150,000. Most students don't qualify for scholarships, and that means most students are on the hook for a hefty tuition loan at the time of graduation. How do those students pay that loan? By taking on any case that walks through their front doors. According to the National Association of Law Placement, about 52,000 students entered law school in the fall of 2010, an all-time high. That means that now, in 2014, we have more underemployed lawyers than ever before, and underemployed lawyers with a high student loan debt. In turn, claims that may not have been given a second look by most lawyers five to 10 years ago are now being eagerly accepted by an underemployed, heavily indebted lawyer, even when the employer in question did everything right with respect to a particular employee. Thus, in this economic climate, almost every termination is susceptible to a claim, no matter how good the facts may be for an employer.

## Cost of Attorney Fees

CIS estimates that defense costs in any given litigated claim will run approximately \$150,000 or more. Another cost-related concern for an employer is what the fees will be for the attorney representing the employee: most employment laws have prevailing party attorney fee provisions that require the losing party to pay the winning party's attorney fees. In other words, double that \$150,000 figure if the employer loses. Keep in mind, too, that an employee represented by a union may very well begin his or her claim by proceeding through the terms of an applicable collective bargaining agreement (grievances and arbitration) before proceeding to a lawsuit. The employer will be responsible for all fees and costs associated with the grievance and arbitration process, too.

The vast majority of employees who sue their employers do not pay their attorney fees or money the same way an employer does (typically by the hour). Instead, employers representing employees typically enter into "contingency fee agreements" with the employees. In a contingency fee agreement, the employee pays nothing to an attorney during the life of a claim and lawsuit, and will not do so until there is a jury verdict in favor of the employee or a settlement reached—then the attorney takes a percentage of what is awarded. As many critics have noted, the use of

## Average Cost Per Claim Type

Whistleblower	\$52,171
Gender	\$50,681
Retaliation	\$47,069
ADA	\$45,170
Wrongful Term	\$42,898
Sexual Harrassment	\$35,877
WC Discrimination & Retaliation	\$29,716
Contract	\$27,769
Age	\$25,665
Defamation	\$9,330

contingency fee agreements translates into more frivolous claims against employers—what, after all, does the employee have to lose if he or she decides to file a lawsuit against his or her employer?

## Damages Awarded to a Successful Employee

There is no scientific way to gauge how much in damages an employee could be awarded during a jury trial. If the same set of facts were tried to 10 different juries, it would be reasonable to expect that the amount of damages awarded by those 10 juries would range from zero dollars to something in the six figures. If the jury verdict is appealed, interest starts tacking on to the amount awarded by the jury.

## Non-Montetary Costs

Because a claim can exist for several years, the employee and the employer can expect to spend a great deal of time on the claim/lawsuit. This includes participating in the discovery process, working with their respective attorneys on strategy, and attending trial. Individuals who were named as defendants in a lawsuit report experiencing a high level of stress while a lawsuit is pending, because the process itself (no matter how good the facts) is simply unpleasant and stressful. Meanwhile, local newspapers and the "gossip mill" run rampant during the life of a lawsuit, and both the employee and the employer can expect to see their respective positions played out in the media. ■

## Which metro area offers the best bang for the buck?

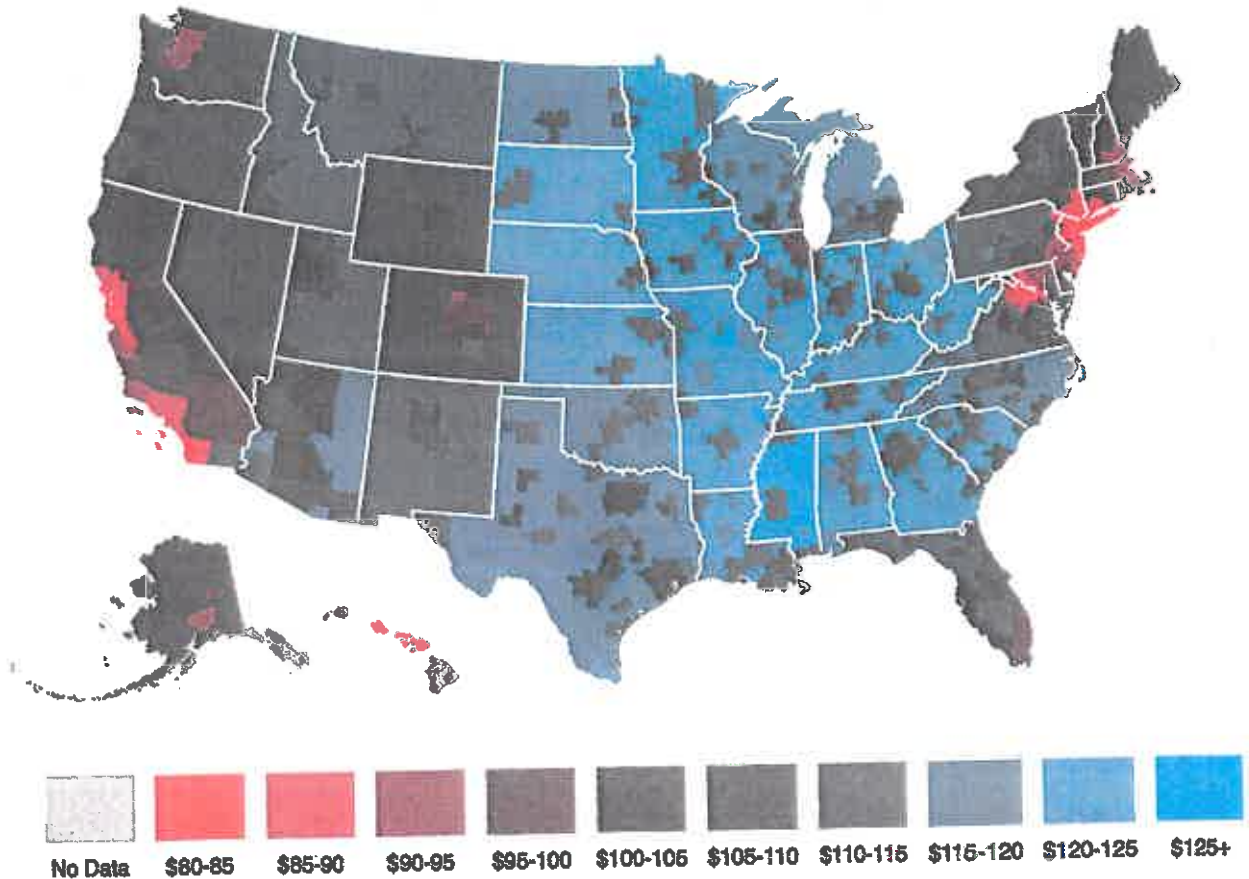
How much is \$100 really worth? About \$81 if you're in Honolulu and about \$126 if you're in Danville, Ill.

This value fluctuates between those two figures depending on urban area, according to the Tax Foundation, which recently released a map demonstrating the relative value of \$100 across more than 380 metropolitan areas.

The MSAs where \$100 will buy you the least, following Honolulu, are New York-Newark-Jersey City, N.Y./N.J., San Jose-Sunnyvale-Santa Clara, Calif., Bridgeport-Stamford-Norwalk, Conn., and San Francisco-Oakland-Hayward, Calif.

But these metros are the exception rather than the rule. According to *The Washington Post*, in about 85 percent of metro areas, the purchasing power of \$100 is greater than its face value.

However, in areas where \$100's purchasing power is greater, the differences can still add up, even in rural communities. "It's important to see that price differences do persist across states, even in non-metropolitan areas. \$100 still doesn't go nearly as far in rural California (\$101.94) as it does in rural Texas (\$113.64). It doesn't even go as far as it does in San Antonio. (\$106.50)." According to the study, "This suggests that policy – not just geography and urbanization – may play a role in these price differences."





**MONTH END RECAP**

	SEPTEMBER 2014		YTD	%	Unexpended	
	REVENUE	EXPENDITURES				
1 GENERAL	\$ 6,249.77	\$ 15,258.62	\$ 142,157.31	13.39%	\$ 919,142.69	1
2 WATER	\$ 29,989.17	\$ 12,479.06	\$ 77,306.88	7.56%	\$ 945,393.12	2
3 SEWER	\$ 25,127.05	\$ 188,706.98	\$ 225,540.99	32.07%	\$ 477,709.01	3
4 STREETS	\$ 12,738.23	\$ 2,572.10	\$ 24,915.85	4.71%	\$ 503,784.15	4
5 WATER BOND	\$ -	\$ -	\$ -	0.00%	\$ 77,678.00	5
6 SEWER BOND	\$ -	\$ 332,072.00	\$ 332,072.00	80.17%	\$ 82,154.00	6
7 SEWER DEBT FEE	\$ 10,348.91	\$ -	\$ 32,079.67	25.66%	\$ -	7
8 BUILDING & EQUIPMENT	\$ -	\$ -	\$ -	0.00%	\$ 459,600.00	8
9 WATER RESERVE	\$ -	\$ -	\$ -			9
10 HOUSING REHAB	\$ -	\$ -	\$ -			10
11 WATER SDC	\$ -	\$ -	\$ -			11
12 SEWER SDC	\$ -	\$ -	\$ -			12
13 STORMWATER SDC	\$ -	\$ -	\$ -			13
14 BIKEWAY/PATHS	\$ 82.05	\$ -	\$ -			14
15 LIBRARY TRUST	\$ -	\$ -	\$ -			15
16 CEMETERY	\$ -	\$ -	\$ -			16
17 TRANSIENT ROOM TX	\$ -	\$ -	\$ -			17
18 SEWER CONSTRUCTION	\$ -	\$ -	\$ -			18
19 LAND ACQUISITION	\$ -	\$ -	\$ -			19
20 COMMUNITY PROJECTS	\$ -	\$ 2,825.00	\$ -			20
	\$84,535.18	\$553,913.76	\$ 6,650.00	4.75%	\$ 133,450.00	

**KeyBank Accounts**

General	\$ 211,459.34
Utility	\$ 19,300.00
Park	\$ 1,050.00
Court	\$ 1,602.59
<b>Oregon State Treasury</b>	<b>\$ 3,656,014.55</b>
<b>Community Improvements</b>	<b>\$ 9,237.31</b>

<b>2013-2014</b>	<b>YTD</b>	<b>% of Total</b>
Appropriated	\$ 341,963.01	31.11%

**DEBT Payments**

Water	\$ 54,927.00
Wastewater	\$ 396,307.00

**Total Debt**

Water	\$ 1,349,225.00
Wastewater	\$ 12,371,610.00
<b>Total</b>	<b>\$ 13,720,835.00</b>

