

City of Brookings

MEETING AGENDA

CITY COUNCIL/URBAN RENEWAL AGENCY

Monday, June 23, 2014, 7:00pm

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

CITY COUNCIL

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Ceremonies/Appointments/Announcements

1. Proclamation – Relay for Life Weekend. [pg. 3]

E. Scheduled Public Appearances

1. South Coast Development Council – Interim Director John Hitt

F. Oral Requests and Communications from the audience - Public Comments on non-agenda items – 5 minute limit per person.*

G. Staff Reports

1. Revisions to Brookings Municipal Code Title 15, Buildings and Construction. [Building, pg. 4]
 - a. Proposed changes [pg. 5]
 - b. Dangerous Building Code excerpts [pg. 18]
2. Revisions to Brookings Municipal Code Section 13.35.027 (C), pertaining to storm water regulations. [Building, pg. 22]
 - a. Proposed changes [pg. 23]
 - b. Marion County Oregon Drainage Law [pg. 24]
3. Authorization to negotiate and execute As Needed Engineering Service contracts with Dyer Partnership, Stover Engineering, RH2 Engineering and Willdan Engineering. [PWDS, pg. 25]
4. Approval of mural application for 630 Fleet Street. [PWDS, pg. 27]
 - a. Application with artistic rendering of proposed mural [pg. 28]
 - b. Photo of building [pg. 35]
5. Direction to staff regarding development of a preliminary concept plan and program for community involvement in the design process, for a combined aquatics and community center at Bud Cross Park. [City Manager, pg. 36]
 - a. Curry Coastal Pilot article dated July 3, 2013. [pg. 38]
6. Authorization to execute Parking Area Agreement with C & K Market. [City Manager, pg. 39]
 - a. Parking Area Agreement [pg. 40]
7. Authorization to execute a letter consenting to Schwabe, Williamson & Wyatt's representation of South Coast Lumber Company in regards to City project-related water utility easements. [City Manager, pg. 46]
 - a. Letter from Schwabe, Williamson & Wyatt. [pg. 47]

H. Resolutions

1. Appropriations transfers for Fiscal Year 2013-14. [F&HR, pg. 50]
 - a. Resolution 14-R-1037, appropriating insurance proceeds [pg. 52]
 - b. Resolution 14-R-1038, appropriating grants and donations [pg. 54]
 - c. Resolution 14-R-1039, appropriating contingency funds [pg. 55]
 - d. Resolution 14-R-1040, appropriating general, tourism and Dawson Bancroft Bond funds [pg. 56]
 - e. Resolution 14-R-1041, appropriating general and water loan funds [pg. 58]

I. Consent Calendar

1. Approve Council minutes for June 9, 2014. [pg. 59]
2. Accept Planning Commission minutes for April 8, 2014. [pg. 64]
3. Accept Public Art Committee minutes for June 2, 2014. [pg. 65]
4. Receive May 2014 monthly financial report. [pg. 66]

J. Remarks from Mayor and Councilors

K. Adjournment

URBAN RENEWAL AGENCY

A. Call to Order

B. Roll Call

C. Consent Calendar

1. Approve May 27, 2014 Agency minutes. [pg. 72]

D. Public Comments

E. Staff Reports

1. Appropriations transfers for Fiscal Year 2013-14. [F&HR, pg. 73]
 - a. Resolution 14-R-1042, budget transfers [pg. 74]
 - b. Resolution 14-R-1043, budget appropriations for debt refinance [pg. 75]

F. Agency Remarks

*Obtain Public Comment Forms and view the agenda and packet information on-line at www.brookings.or.us, at City Hall and at the local library. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least ten days advance notification. Please contact 469-1102 if you have any questions regarding this notice.

City of Brookings *Proclamation*

WHEREAS, American Cancer Society is the largest source of nonprofit, nongovernmental cancer research funding in the United States; and

WHEREAS, American Cancer Society fights for lifesaving laws to increase federal research funding, reduce tobacco use, promote early detection of cancers, improve access to care, and support cancer patients; and

WHEREAS, American Cancer Society's Relay for Life is a community gathering where everyone can participate in the fight against cancer; and

WHEREAS, Relay for Life brings together millions of people to raise money to help prevent cancer, save lives, and diminish suffering from the disease; and

WHEREAS, Ceremonies throughout Relay for Life symbolize the hope and perseverance with which we all continue to fight cancer; and

NOW, THEREFORE, I, Ron Hedenskog, Mayor of the City of Brookings, do hereby declare July 12th and 13th, 2014, as

Relay For Life Weekend

AND, BE IT FURTHER RESOLVED, that all citizens are urged to participate in all Relay for Life activities being held at the Brookings-Harbor High School football field, beginning with opening ceremonies at 4:00 PM, Saturday July 12th, and closing ceremonies at 8:00 AM, Sunday July 13th.

In Witness Whereof, I, Mayor Ron Hedenskog, do hereby set my hand and cause the official seal of the City of Brookings, Oregon, to be affixed this 23rd day of June, 2014.

Mayor Ron Hedenskog

CITY OF BROOKINGS

Council Agenda Report

Meeting Date: June 23, 2014

Originating Dept: PW/DS



Building Official


City Manager Approval

Subject: Proposed changes to Title 15, Buildings and Construction

Recommendation: Consider changes to Title 15;

- Modify reference to the Dangerous Building Code in Section 15.05.10 to mirror our current enforcement process.
- Clarify the individual appeals process (administrative vs. code interpretation)
- Remove unnecessary language that is contained in the adopted building codes.
- Various minor language and title changes

Financial Impact: None

Background/Discussion:

- The Dangerous Building Code contains enforcement provisions that differ from that of the City of Brookings, to avoid confusion the process should mirror our own.
- A recent attempt to appeal fines levied as a result of work covered without inspection and work without permits, resulted in the appellants claim that the appeals process is confusing. Currently we have two separate processes, each located in a different code section and applicable to different situations. The first is an appeal of an administrative decision related to a violation of 15.05.020; the deciding body is the City Manager. The second is an appeal of a code interpretation or application, the deciding body is the City Council.
- Removing section 15.10.090, Appeals, from Chapter 15.10 and locating it immediately after the Administrative appeals section helps clarify that there are two different processes. Upon removal of section 15.10.090, the entirety of the remainder of Chapter 15.10 is verbatim language from the State model codes and unnecessary to repeat in the municipal code.

Policy Considerations: Approval of the above would be consistent with the Council goals of making our process more understandable to the public.

Attachment(s):

- a. Chapter 15 with proposed changes
- b. Excerpts from the 1997 Dangerous Building Code

Chapter 15.05 BUILDING CODES-ADMINISTRATION

Sections:

- [15.05.010](#) Adoption of codes.
- [15.05.020](#) Violations – Penalties – Remedies.
- [15.05.030](#) Authority to impose administrative civil penalty.
- [15.05.040](#) Appeals procedures – **Administrative**
- [15.05.045](#) **Appeals procedure – Code interpretation and application.**
- [15.05.050](#) Unpaid penalties.

15.05.010 Adoption of codes.

*From the effective date of the ordinance codified in this chapter, the construction, alteration, repair, demolition, moving, use or occupancy of a structure within the jurisdiction of the city of Brookings shall comply with the standards and requirements of the following codes, as now exist or as hereafter amended, each of which are hereby adopted by this reference into the ordinances of the city of Brookings. **Also by this reference the city adopts those provisions of the Oregon Administrative Rules which implement these codes. The building official shall enforce the regulations and provisions set forth in the codes and the Oregon Administrative Rules as if the same were set forth herein.***

A. The **currently adopted** Oregon Structural Specialty Code, including the appendices adopted by the state of Oregon and **specifically adopting** Appendix J.; ~~provided, however, that ORS 455.320 shall not be applicable~~

B. The **currently adopted** Oregon Mechanical Specialty Code;

C. The **currently adopted** Oregon Plumbing Specialty Code;

D. The **currently adopted** Oregon Residential Specialty Code ~~specifically adopting and including Section 404.8, Liability;~~ **provided, however, that ORS 455.320 shall not be applicable.**

E. The **currently adopted** Oregon Fire Code **and referenced NFPA standards;**

F. The Uniform Code for the Abatement of Dangerous Buildings; **1997 Edition, published and copyrighted by the International Conference of Building Officials is hereby adopted in its entirety, except as hereinafter specifically modified, to by hereinafter referred to as the Dangerous Building Code.**

(1) Section 203 is modified to read as follows: Citations for violations shall be issued in conformance with Brookings Municipal Code Section 8.15.090; General abatement procedure, 8.15.100; Summary abatement and 1.05; Penalties.

(2) Section 701.1 is modified by deleting the last sentence of the paragraph.

(3) Section 901 is modified by substituting the term “building official” for the term “public services director and “finance and human services director” for the term “clerk”

(4) Section 902 is modified by substituting the term “finance and human Services director” for the term “clerk”

(5) Section 903 is modified by substituting the term “finance and human services director” for the term “clerk”

(6) Section 905 is modified to read as follows:

“905. Assessment. After the proceedings described in Section 904 of this code, the Municipal Court Judge may order that the said charge be imposed as a special assessment against the real property involved and cause the same to be entered in the docket of City liens and thereafter the said assessment shall constitute a lien against said property.

(7) Sections 906, 908, 909, 910, 911 and 912 to be omitted.

G. The ***currently adopted Oregon*** Manufactured Dwelling Standards;

H. The ***currently adopted*** State of Oregon Parks and Camps Rules. [Ord. 10-O-656 § 2; Ord. 07-O-588 § 2; Ord. 06-O-575; Ord. 96-O-349.D § 3; Ord. 93-O-349.C §§ 2 – 5; Ord. 90-O-349.B § 1; Ord. 90-O-349.A §§ 2, 3, 4; Ord. 86-O-408 § 2; Ord. 81-O-349 § 1.]

15.05.020 Violations – Penalties – Remedies.

A. No person, firm, corporation or other entity however organized shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building or structure in the city, or cause the same to be done, contrary to or in violation of this code.

B. Violation of a provision of this chapter shall be subject to an administrative civil penalty not to exceed the amounts shown in the penalty matrix to be adopted by resolution and shall be processed in accordance with the procedures set forth in this code.

C. Each day that a violation of a provision of this chapter exists constitutes a separate violation.

D. In addition to the above penalties, a condition caused or permitted to exist in violation of this chapter is a public nuisance and may be abated by any of the procedures set forth under law.

E. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the city under any ordinance, statute or law. [Ord. 10-O-656 § 2; Ord. 81-O-349 § 3.]

15.05.030 Authority to impose administrative civil penalty.

A. Upon a determination by the building official that any person, firm, corporation or other entity however organized has violated a provision of this chapter or a rule adopted thereunder, the building official may

issue a notice of civil violation and impose upon the violator and/or any other responsible person an administrative civil penalty as provided by subsections (A) through (K) of this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

B. Prior to issuing an order to correct a violation under this section, the building official may pursue reasonable attempts to secure voluntary correction.

C. Prior to issuing a notice of civil violation and imposing an administrative civil penalty under this section, the building official shall issue an order to correct a violation to one or more of the responsible persons. Except where the building official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be 15 days.

D. Following the date or time by which the correction must be completed as required by an order to correct a violation, the building official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the building official may issue a notice of civil violation and impose an administrative civil penalty to each responsible person to whom an order to correct was issued.

E. Notwithstanding subsections (B) and (C) of this section, the building official may issue a notice of civil violation and impose an administrative civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the building official determines that the violation was knowing or intentional or a repeat of a similar violation.

F. In imposing an administrative civil penalty authorized by this section, the building official shall consider:

1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
2. Any prior violations of statutes, rules, orders, and permits;
3. The gravity and magnitude of the violation;
4. Whether the violation was repeated or continuous;
5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
6. The violator's cooperativeness and efforts to correct the violation;
7. Any relevant rule of the building official.

G. Any notice of a civil violation that imposes an administrative civil penalty under this section shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any

such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. Every notice shall include:

1. Reference to the particular code provision, ordinance number, or rule involved;
2. A statement of the matters asserted or charged;
3. A statement of the amount of the penalty or penalties imposed;
4. The date on which the order to correct was issued and time by which correction was to be made, or if the penalty is imposed pursuant to subsection (E) of this section, a statement of the basis for concluding that the violation was knowing, intentional, or repeated; and
5. A statement of the party's right to appeal the civil penalty to the city manager; a description of the process the party may use to appeal the civil penalty; and the deadline by which such an appeal must be filed.

H. Any person, firm, corporation or other entity however organized that is issued a notice of civil penalty may appeal the penalty to the city manager. The provisions of BMC 15.05.040 shall govern any requested appeal.

I. A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the city manager pursuant to, and within the time limits established by, BMC 15.05.040.

J. Each day the violator fails to remedy the code violation shall constitute a separate violation.

K. The civil administrative penalty authorized by this section shall be in addition to:

1. Assessments or fees for any costs incurred by the city in remediation, cleanup, or abatement; and
2. Any other actions authorized by law; provided, that the city shall not issue a citation to municipal court for a violation of this chapter. [Ord. 10-O-656 § 2; Ord. 07-O-588 § 3; Ord. 81-O-349 § 4.]

15.05.040 Appeals procedures - Administrative

A. A person, firm, corporation or other entity however organized aggrieved by an administrative action of the building official taken pursuant to any section of this code that authorizes an appeal under this section may, within 15 days after the date of notice of the action, appeal in writing to the city manager. The written appeal shall be accompanied by a \$150.00 appeal fee and shall include:

1. The name and address of the appellant;

2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

If a person, firm, corporation or other entity however organized appeals a civil penalty to the city manager, the penalty shall become final upon issuance of the city manager's decision affirming the imposition of the administrative civil penalty.

B. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this subsection, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.

C. Unless the appellant and the city agree to a longer period, an appeal shall be heard by the city manager within 30 days of the receipt of the notice of intent to appeal. At least 10 days prior to the hearing, the city shall mail notice of the time and location thereof to the appellant.

D. The city manager shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the city manager deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the building official. The rules of evidence as used by courts of law do not apply.

E. The city manager shall issue a written decision within 10 days of the hearing date. The written decision of the city manager is final.

F. Other than as provided in this subsection, the appeal fee is not refundable. The city manager may make a determination on the motion of the appellant that the appeal fee shall be refunded to the appellant upon a finding by the city manager that the appeal was not frivolous.

G. Failure to pay a penalty imposed hereunder within 10 days after the penalty becomes final as provided in subsection (A) of this section shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The building official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by BMC 15.05.050, other provisions of this code, or state statutes. [Ord. 10-O-656 § 2; Ord. 81-0-349 § 5.]

15.05.045 Appeals – Code interpretation and application

A. Board of Appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of all members of the common council of the city of Brookings. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

B. Appeal Procedure. Any decision by the building official relating to the suitability of alternate materials and methods of construction may be appealed to the board of appeals in conformance with procedures provided herein. [Ord. 97-O-523 § 9.]

15.05.050 Unpaid penalties.

A. Failure to pay an administrative penalty imposed pursuant to this code within 10 days after the penalty becomes final shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The building official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection (B) of this section, other provisions of this code, or state statutes.

B. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty becomes final, the ~~building official~~ **finance and human services director** shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of city liens. At the time such an assessment is made, the ~~building official~~ **finance and human services director** shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of city liens. The lien shall be enforced in the same manner as all city liens. Interest shall commence from the date of entry of the lien in the lien docket.

C. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy. [Ord. 10-O-656 § 2.]

[Home](#)

[<](#)

[>](#)

Chapter 15.10 BUILDING CODE ENFORCEMENT

Sections:

[~~15.10.010~~](#) ~~Title.~~

[~~15.10.020~~](#) ~~Purpose.~~

[~~15.10.030~~](#) ~~Scope.~~

[~~15.10.040~~](#) ~~Definition.~~

[~~15.10.050~~](#) ~~Alternate materials and methods.~~

[~~15.10.060~~](#) ~~Modifications.~~

[~~15.10.070~~](#) ~~Tests.~~

[~~15.10.080~~](#) ~~Powers and duties of building official.~~

[~~15.10.090~~](#) ~~Appeals.~~

~~15.10.100 Permits and plans.~~

~~15.10.110 Codes and regulations.~~

~~15.10.120 Fees.~~

~~15.10.130 Penalties.~~

15.10.010 Title.

These regulations shall be known as the city of Brookings building code, may be cited as such and will be referred to herein as "this code." [Ord. 97-O-523 § 1.]

15.10.020 Purpose.

The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of the city who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation. [Ord. 97-O-523 § 2.]

15.10.030 Scope.

This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure, except those located in a public way. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall control. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall apply. Where there is a conflict between this code and a statute of the state of Oregon, the statute shall govern. [Ord. 97-O-523 § 3.]

15.10.040 Definition.

For purposes of this code, "building official" shall mean the building official of the city of Brookings and "code enforcement agency" shall mean the building division of the city of Brookings. [Ord. 97-O-523 § 4.]

15.10.050 Alternate materials and methods.

The provisions of this code are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this code, provided such alternate has been approved and its use authorized by the building official. The building official may approve such alternate material, design or method provided the building official finds that the proposed material, design or method complies with the provisions of this code and that it is, for the purpose intended, at least the equivalent of that prescribed in this code in terms of suitability, strength, effectiveness, fire resistance, durability, safety and sanitation. The building official shall require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of alternate material, design or method shall be recorded and entered in the files of the building official. [Ord. 97-O-523 § 5.]

15.10.060 Modifications.

When there are practical difficulties in carrying out the provisions of this code, the building official may grant modifications provided the building official finds that the modification is in conformance with the

intent and purpose of this code and that said modification does not lessen any fire protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the code enforcement agency. [Ord. 97-O-523 § 6.]

15.10.070 Tests.

Whenever there is insufficient evidence of compliance with the provisions of this code or that any material, method or design does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to the city. Test methods shall be as specified by this code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures. All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records. [Ord. 97-O-523 § 7.]

15.10.080 Powers and duties of building official.

A. General. There is hereby established a code enforcement agency which shall be under the administrative and operational control of the building official. The building official is authorized to enforce all the provisions of this code. The building official shall have the power to render written and oral interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this code.

B. Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint technical officers and inspectors and other employees to carry out the functions of the code enforcement agency.

C. Right of Entry. When it may be necessary to inspect to enforce the provisions of this code, or the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this code or which otherwise makes the building or premises unsafe, dangerous or hazardous, the building official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this code; provided, that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by Oregon law to secure entry.

D. Stop Work Orders. Whenever any work is being done contrary to the provisions of this code (or other pertinent laws or ordinances implemented through its enforcement), the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the building official to proceed thereafter.

~~E. Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect fuel gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this code when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time thereafter.~~

~~F. Authority to Abate Hazardous Equipment. When the building official ascertains that equipment, or any portion thereof, regulated by this code has become hazardous to life, health or property, the building official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice. When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) shall be given within 24 hours to the involved utility, the owner and/or occupant of the building, structure or premises. When equipment is maintained in violation of this code and in violation of a notice issued pursuant to the provisions of this section, the building official may institute such action as may be necessary to prevent, restrain, correct or abate the violation.~~

~~G. Connection after Order to Disconnect. No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this code which has been disconnected or ordered disconnected or discontinued by the building official until the building official specifically authorizes the reconnection and/or use of such equipment.~~

~~H. Maintenance. All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the building official may cause a structure to be reinspected.~~

~~I. Occupancy Violations. Whenever any building, structure or equipment therein regulated by this code is used contrary to the provisions of this code, the building official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the building official in his notice and make the structure, or portion thereof, comply with the requirements of this code. [Ord. 97-O-523 § 8.]~~

15.10.090 Appeals. Move this section to previous section, rename and renumber 15.05.45

A. Board of Appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of all members of the common council of the city of Brookings. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official. The board of appeals shall

have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

B. Appeal Procedure. Any decision by the building official relating to the suitability of alternate materials and methods of construction may be appealed to the board of appeals in conformance with procedures provided herein. [Ord. 97-O-523 § 9.]

15.10.100 Permits and plans.

A. ~~Permits Required. No building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved or converted unless a separate permit for each building or structure has first been obtained from the building official. A building permit shall not be required for those structures listed in the edition of Oregon Structural Specialty Code Section 106.2 entitled "Work exempt from a permit."~~

B. ~~Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the code enforcement agency for that purpose.~~

C. ~~Submittal Documents. Plans, specifications, engineering calculations, diagrams and other data shall be submitted in one or more sets with each application for a permit. The building official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.~~

D. Plan Review Requirements.

1. ~~Information on Plans and Specifications. Plans and specifications shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. Plans for buildings more than two stories in height of other than Group R, Division 3 and Group U occupancies shall indicate how required structural and fire-resistive integrity will be maintained where penetrations are made for electrical, mechanical, plumbing and communication conduits, pipe and similar systems. Ventilation occupancy load and occupancy ventilation design methods shall be identified in the plans or specifications. Ventilation occupancy load and ventilation rates for each occupied space shall be indicated on drawings. Except as to R-3 occupancies and R-1 occupancies which are three stories or less in height, the plans, drawings and specifications shall be maintained as a permanent record on the building premises.~~

2. ~~State Fire and Life Safety Plan Review, Occupancies to be Reviewed. Certain occupancies identified in ORS 479.155(2) must have a state fire and life safety review. This review will require the payment of a separate plan review fee equal to 40 percent of the permit fee and this fee shall be in addition to the structural plan review fee.~~

E. Issuance. The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of the city to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees have been paid, the building official shall issue a permit therefor to the applicant. When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified or altered without authorization from the building official, and all work regulated by this code shall be done in accordance with the approved plans. The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

F. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the building official for a period as specified in OAR 166-107-0010; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

G. Validity of Permit. The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the city or any other federal, state, or local law, statute, rule, regulation, or ordinance. The issuance of a permit based on plans, specification and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder, when in violation of this code or of any other ordinances of the city.

H. Expiration of Plan Reviews. Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

I. Permit Expiration, Extension and Reinstatement. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section. Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a

period of 180 days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the building official to indicate the intent to start and complete the project. The building official may require the permittee to document these activities. Every permit issued by the building official shall expire by limitation and become null and void 24 months after the date of permit issuance. If the building or work authorized by permit has not received inspections on a quarterly schedule or final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished. Any permittee holding an unexpired permit may apply for an extension of time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once. Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met: (1) the code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit; (2) no changes have been made or will be made in the original plans and specifications for such work; and (3) the original permit expired less than one year from the request to reinstate. The fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required. The time limitations set forth in this section are regulatory in nature and effect and shall apply to all permits issued by the city as of the effective date of the ordinance codified in this chapter, and to all permits issued thereafter by the city.

J. Work Without a Permit/Investigation Fees. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee equal to the permit fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

K. Not Transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

L. Suspension/Revocation. The building official may, in writing, suspend or revoke a permit issued under the provision of this code whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the city.

M. Inspections. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the building official. The permit holder shall not proceed with construction activity until authorized to do so by the building official. It shall be the duty

of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent. Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained and made available by the permit holder until final approval has been granted by the building official. [Ord. 06-O-575; Ord. 97-O-523 § 10.]

15.10.110 Codes and regulations.

A. The city has adopted by separate ordinance certain codes which regulate the construction, alteration, repair, demolition, moving, use and occupancy of structures within the city. By this reference the city adopts those provisions of the Oregon Administrative Rules which implement these codes. The building official shall enforce the regulations and provisions set forth in the codes and the Oregon Administrative Rules as if the same were set forth herein.

B. All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages. All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Building Code or such alternate procedures as may have been or as may be adopted by the city. As an alternative, the building official, or another employee or official of the city as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation. [Ord. 97-O-523 § 11.]

15.10.120 Fees.

Fees charged under this code shall be as prescribed by the State of Oregon Building Codes Division. The building official may authorize the refunding of fees paid in accordance with any refund policy in effect in the city. The determination of value or valuation under any provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment. [Ord. 97-O-523 § 12.]

15.10.130 Penalties.

Pursuant to Chapter 1.05 BMC. [Ord. 07-O-588 § 4; Ord. 97-O-523 § 14.]

Chapter 2 ENFORCEMENT

SECTION 201 — GENERAL

201.1 Administration. The building official is hereby authorized to enforce the provisions of this code.

The building official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

201.2 Inspections. The health officer, the fire marshal and the building official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

201.3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

"Authorized representative" shall include the officers named in Section 201.2 and their authorized inspection personnel.

SECTION 202 — ABATEMENT OF DANGEROUS BUILDINGS

All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 401 of this code.

SECTION 203 — VIOLATIONS

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code. CITE W/ BMC 8.15.090

SECTION 204 — INSPECTION OF WORK

All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and Sections 108 and 1701 of the Building Code.

SECTION 205 — BOARD OF APPEALS

205.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 501 of this code. Copies of all rules or regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.

205.2 Limitations of Authority. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

Chapter 7

ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS

SECTION 701 — COMPLIANCE

701.1 General. After any order of the building official or the board of appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. ~~Any such person who fails to comply with any such order is guilty of a misdemeanor.~~

701.2 Failure to Obey Order. If, after any order of the building official or board of appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

701.3 Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING DO NOT OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
..... of

2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and or-

der required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

SECTION 702 — EXTENSION OF TIME TO PERFORM WORK

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

SECTION 703 — INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

Chapter 9

RECOVERY OF COST OF REPAIR OR DEMOLITION

- MODIFIED
TITLES**SECTION 901 — ACCOUNT OF EXPENSE, FILING OF REPORT**

The director of public works shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, said director shall prepare and file with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 401.3.

SECTION 902 — NOTICE OF HEARING

Upon receipt of said report, the clerk of this jurisdiction shall present it to the legislative body of this jurisdiction for consideration. The legislative body of this jurisdiction shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of this jurisdiction shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the legislative body will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

SECTION 903 — PROTESTS AND OBJECTIONS

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of this jurisdiction shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the legislative body of this jurisdiction at the time set for the hearing, and no other protests or objections shall be considered.

SECTION 904 — HEARING OF PROTESTS

Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the director together with any such objections or protests. The legislative body may make such revision, correction or modification in the report or the charge as it may deem just; and when the legislative body is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the legislative body of this jurisdiction on the report and the charge, and on all protests or objections, shall be final and conclusive.

SECTION 905 — PERSONAL OBLIGATION OR SPECIAL ASSESSMENT *MODIFIED - MURKIN CODE & LIEN*

905.1 General. The legislative body of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

905.2 Personal Obligation. If the legislative body of this jurisdiction orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for this jurisdiction to collect the same on behalf of this jurisdiction by use of all appropriate legal remedies.

905.3 Special Assessment. If the legislative body of this jurisdiction orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

SECTION 906 — CONTEST

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

SECTION 907 — AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST

The legislative body of this jurisdiction, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in not to exceed five equal annual installments. The legislative body's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

SECTION 908 — LIEN OF ASSESSMENT

908.1 Priority. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

908.2 Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date.

SECTION 909 — REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL

After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for this

jurisdiction, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

SECTION 910 — FILING COPY OF REPORT WITH COUNTY AUDITOR

If the county assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

SECTION 911 — COLLECTION OF ASSESSMENT: PENALTIES FOR FORECLOSURE

The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected

and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

If the legislative body of this jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

SECTION 912 — REPAYMENT OF REPAIR AND DEMOLITION FUND

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction, who shall credit the same to the repair and demolition fund.

CITY OF BROOKINGS

Council Agenda Report

Meeting Date: June 23, 2014

Originating Dept: PW/DS


Building Official


City Manager Approval

Subject: Proposed changes to Title 13, Public Services

Recommendation: Consider change to Title 13.35.027 C

Financial Impact: None

Background/Discussion:

When a project for development is proposed, the Site Plan Committee reviews the storm water plan. This ensures that provisions are in *place prior to the work being done* to make sure that neighboring property owners are not impacted adversely, or that a city owned system will not become over capacity.

Paving or other flat work is exempt from building codes oversight. We are often not aware of a project until it has been completed, an example would be paving a formerly gravel parking lot. This creates a condition whereby a property owner, who has improved his property in a manner that does not require City oversight, and is permanent in nature, may become in violation of city code.

Current BMC language implies that the City has an enforcement role in *any* situation where increase of storm water could occur. Current language also implies that the City has authority to assign liability in what is a civil matter. It also puts the City in the position of determining level of damage in order to determine the extent of liability.

Policy Considerations: None

Attachment(s):

- a. Chapter 13.35.027 with proposed changes
- b. Copy of Oregon Drainage Law from Marion County, Oregon

13.35.027 Alteration, change, restriction, blockage or contamination of watercourses, drainage channels, storm drains prohibited – Collection or concentration of surface waters prohibited.

A. No watercourse, drainage channel, or storm drain shall be altered, changed, restricted, contaminated or blocked in any manner, nor shall diffused surface waters be collected or concentrated in any manner until or unless a drainage plan prepared by an Oregon registered professional engineer has been submitted to and approved by the city manager or his/her designee.

B. Any property owner who causes or allows any type of construction to take place on his or her property will be responsible for the prevention of any debris, contaminant or potential contaminant from entering the city's storm drainage system, and must adhere to and abide by the guidelines for erosion control and sediment prevention, as described in the City of Brookings Engineering Requirements and Standard Specifications for Public Works Infrastructure.

C. ~~The~~**No** property owner and **or** any other person that has **shall** altered or changed a watercourse, or has caused or allowed the restriction, contamination or blockage thereof in any manner whatsoever, ~~or increased the drainage runoff flow so as to cause flooding or damage to other properties, will be liable for damages arising therefrom.~~ [Ord. 13-O-714 § 2.]

Oregon Drainage Law

Oregon has adopted the civil law doctrine of drainage. Under this doctrine, adjoining landowners are entitled to have the normal course of natural drainage maintained. The lower owner must accept water which naturally comes to his land from above, but he is entitled not to have the normal drainage changed or substantially increased. The lower landowner may not obstruct the run-off from the upper land, if the upper landowner is properly discharging the water.

For a landowner to drain water onto lands of another in the State of Oregon, two conditions must be satisfied initially: 1) the lands must contain a natural drainage course; and 2) the landowner must have acquired the right of drainage supported by consideration. In addition, because Oregon has adopted the civil law doctrine of drainage, three basic elements must be followed:

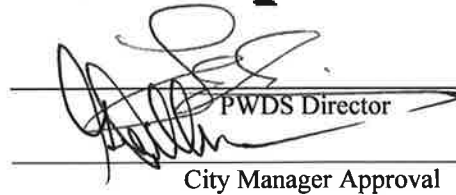
1. A landowner may not divert water onto adjoining land that would not otherwise have flowed there. "Divert water" includes but is not necessarily limited to: 1) water diverted from one drainage area to another; and 2) water collected and discharged which normally would infiltrate into the ground, pond, and/or evaporate.
2. The upper landowner may not change the place where the water flows onto the lower owner's land (Most of the diversions not in compliance with this element result from grading and paving work and/or improvements to water collection systems).
3. The upper landowner may not accumulate large quantities of water, then release it, greatly accelerating the flow onto the lower owner's land. This does not mean that the upper landowner can not accelerate the flow of water at all; experience has found drainage to be improper only when acceleration and concentration of the water were substantially increased.

CITY OF BROOKINGS

Council Agenda Report

Meeting Date: June 23, 2014

Originating Dept: PW/DS



PWDS Director

City Manager Approval

Subject: As needed engineering services

Recommendation: Motion to authorize the City Manager to negotiate and execute four (4) professional services contracts for as needed engineering services with The Dyer Partnership, Stover Engineering, RH2 Engineering and Willdan Engineering.

Financial Impact: Pre-qualifying engineering consultants allows for cost savings in not preparing proposals for each project. By authorizing more than one firm, the City can select different consultants for projects depending on their skills, schedule and estimated hours. State law prohibits using fee proposals as a factor in hiring a professional engineering firm. The fee rates will be presented and negotiated as a part of the execution of the contract and available to staff when considering project assignments.

Background/Discussion: In the past, the City of Brookings has contracted engineering firms to act as the City Engineer. This is no longer necessary due to the fact that the City has a licensed Engineer on staff. The current City Engineer's (the Dyer Partnership) contract will expire July 1, 2014 and a new contract prompts a formal request for qualifications (RFQ) process.

An RFQ review panel made up of Loree Pryce, Professional Engineer, Dave Bassett, Professional Engineer and LauraLee Snook, Building Official, reviewed qualification statements and conducted phone interviews with each of the four companies named above. All of the companies have different strengths and it has been determined that the City is best served by contracting with all of them for as needed services. Each of the firms has been apprised of our intent to contract with several firms and agree that this approach is most cost effective for the City. All consultants agreed we can select or integrate the consultant teams thereby utilizing resources based on the skills and needs of the City.

The Committee ranked the Dyer Partnership the highest of the firms, followed by RH2, Willdan and Stover Engineering.

- a) The Dyer Partnership has proven to have a track record of successful and timely projects. Aaron Speakman, PE was designated the lead engineer and point of contact for the next contract.
- b) RH2, based in Central Point, was hired by city staff last year for an AutoCad civil 3D training which supported the design of Easy Street water main. The lead contact is Joe Strahl, PE who has over 40+ years experience as an engineer, 17 years of which as the Public Works Director for Jackson County. The firm offers broad state of the art services and has on staff expertise in areas such as GIS and SCADA.

- c) Willdan, represented by Roxanne Hughes, PE based in Ventura Ca, was hired to finalize the City's pavement management plan and design the Easy Street paving project. This paving project was extremely successful and a cost savings to the City. Roxanne's proposal includes Civil West Services of Coos Bay for local services such as inspection and construction management. Willdan's location and experience is largely southern California but they do have Oregon professional engineers and an office in Redding.
- d) Stover Engineering represented by Ward Stover and based in Crescent City is a smaller firm yet only a half hour from Brookings. Ward is a licensed engineer in Oregon. The firm is able to provide well rounded services by partnering with Kennedy Jenks in Eugene who has extensive wastewater treatment experience. Staff recommends initially considering Stover for a smaller project and evaluate the performance.

Policy Considerations: The prequalified engineering approach is consistent with the Council and Staff goal of prudent and cost effective use of public funds.

Attachment(s): None

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: June 23, 2014

Originating Dept: PW/DS


Public Works/Development Services Director

City Manager Approval

Subject: Mural at 630 Fleet Street

Recommended Motion: Approve the mural application for 630 Fleet Street

Financial Impact: Public Art Committee recommends \$1,000 towards the paint and supplies from their 2013/14 PAC budget of \$2,500.

Background/Discussion: The Public Art Committee is in support of the enclosed mural application to be considered at 630 Fleet Street. The current building has visibility from highway 101 and adjacent to a parking lot for Rush Eye Center. The design is reflective of our City's natural environment; the river, sea, mountains, trees, and marine life in our region. The mural will be constructed from panels of plywood. There will be 8 total panels connected to a total horizontal length of 32 feet and vertical 8 feet.

The artist is Michelle Hanna who is also a new member to the Public Art Committee.

Staff recommends approval of this mural because it is consistent with City Council's goal to beautify and attract tourists to downtown.

Policy Considerations: None.

Attachment(s):

- a. Mural application
- b. Existing building at 630 Fleet Street



CITY OF BROOKINGS
Site Plan Committee or Public Art Committee

APPLICATION — Exterior Mural

FEE - \$ 77

1. Proposed Mural location

Address: 630 FLEET ST

Tax Map & Lot Number: 4113-06DA-10100-00

2. Brief description of mural, including its artistic concept and theme:

To foster community unity, we plan to support and create a mural at 630 Fleet St that involves a community gathering of artist. Historically, the building site has been a gathering or meeting place. The mural will depict a snapshot of what the landscape looked like during the early 1800's. The mural will enable the building to blend into the surrounding area.
Attach a scaled color rendering of the proposed artwork on a sheet no larger than 11" X 17" (or on a CD as a JPEG or PDF file with maximum resolution of 200 PPI). Also attach a photo or digital image of the building surface where the mural will be applied.

3. Maintenance program details

Provide a copy of a signed maintenance agreement.

Close inspection of mural and any required maintenance will be performed at least once a year. If not by original artist(s), specify conservator information:

Name: Michelle Hanna / Rob Lovell / Dave Lovell

Address: see below

City/State/Zip: _____

Phone, Work: _____ Home: _____ Cell: _____

4. Planned start date of mural project: dependent on funding source -

Planned completion date: November 30, 2014

5. Property owner Information:


Name: Rob Lovell DAVE LOVELL

Address: 630 FLEET ST

City/State/Zip: BROOKINGS OR 97415

Phone, Work: 541 469 5131 Home: SAME Cell: _____

6. Applicant, if other than property owner:

Name: Michelle Hanna Signature: 
Address: PO Box 6696
City/State/Zip: Brookings OR 97415
Phone, Work: 541 254 0850 Home: — Cell: —

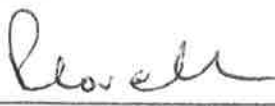

7. Artist information and qualifications: (If more than one, attach additional sheets.)

Name: Michelle Hanna
Address: PO Box 6696
City/State/Zip: Brookings OR 97415
Phone, Work: 541 254 0850 Home: — Cell: —

Also attach artist resume(s).

8. CERTIFICATION BY PROPERTY OWNER

The owner certifies that to the best of his/her knowledge all information provided in this application is true and complete.

Property owner signature: 
Date: 5.18.14 

Note: Property owner's signature is required if applicant is not owner.

Return application with required attachments to:

City of Brookings
898 Elk Drive
Brookings, OR 97415

Chelle Hanna currently paints snapshots of moments, working in watercolor, pen and ink and colored pencil. She received a BFA from the University at Buffalo, and furthered her education through various community arts programs including the East Lansing Hannah Community Center Arts in Michigan, the Mother Earth Studio Ceramic Studio in California, and De Anza College, California.

Chelle's list of notable workshops and mentors include: Walter A. Prochownik, Lian Quan Zhen, Mary Jo Koch, Nancy Taylor Stonington, Kristy Kutch, Eileen Sorg, Claudia Nice and Louis S. Gadal.

Chelle has shown her work in Buffalo NY, Honeoye Falls, NY, San Jose, CA, Bandon, OR, and Brookings, OR. Chelle is a native of Oregon, although she has lived a nomadic lifestyle, resides in Brookings. She often quotes Ani DiFranco , "Art is why I get up in the morning, but the definition ends there".

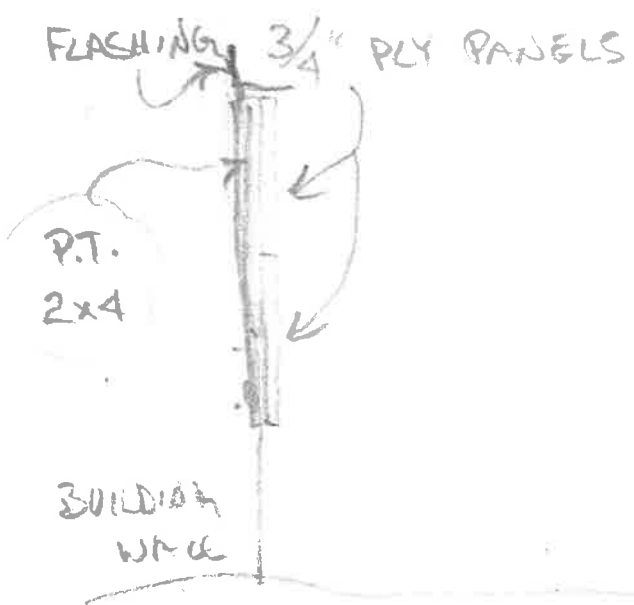
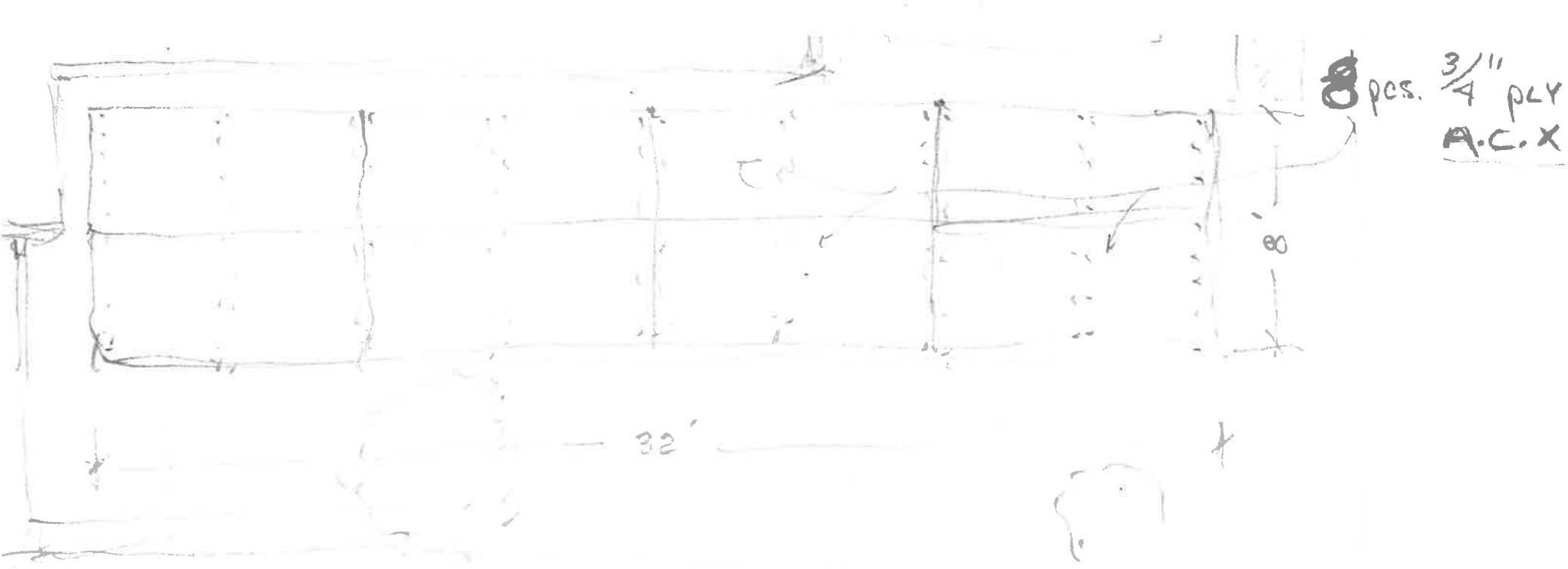
You can follow her Illustration Friday Blog at:

rileydogstudio@blogspot.com









SEAL ALL SIDES OF PLY

- MOUNTINGS
- 9 pcs. 2x4 x 10' P.T.
 - 3 lbs. - 4" GREEN VINYL SEAL
 - 3 lbs. 2" GRN. VINYL SEAL

BIG STRETCH CAULKING 2 TOP

4 pcs. 2" x 3" FLASHING DARK BROWN

2" 3"

256 P. APPROX.

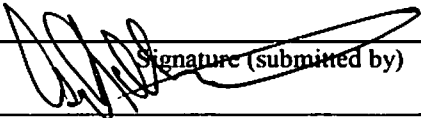


CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: June 23, 2014

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Aquatics and Community Center

Recommended Motion:

Motion to direct staff to work with the Friends of the Brookings Harbor Aquatics Center in the development of a preliminary concept plan for a combined aquatics center and community center to be located at Bud Cross Park, and develop a program for community involvement in the design process.

Financial Impact:

Use of staff resources initially. Architectural services will need to be retained; there is no budget for these services at this time.

Background/Discussion:

The Friends of the Brookings Harbor Aquatics Center (FBHAC) and the Brookings Vision Council (BVC) are pursuing the development of a new Aquatics and Community Center building to serve the Brookings community. City staff has met with representatives of these groups several times, and has participated in research concerning the cost of planning for and development of similar facilities. City staff and Mayor Hedenskog recently met with representatives of the FBHAC and the General Manager of the Grants Pass YMCA to discuss the project development process and the preliminary concept of covering the existing pool within a structure that would also house a community center.

Staff is recommending that the City participate in the project by making Bud Cross Park available as a site for this facility, authorize staff to work with stakeholders in a conceptual design of the facility, and direct that staff work through the Parks and Recreation to vet this project with the community.

This matter was first discussed at a City Council workshop on July 1, 2013, at which time the Council discussed the preparation of a comprehensive development plan at an estimated cost of \$120,000. Since that time, staff and the FBHAC have researched the development of other similar projects and have concluded that by developing a conceptual plan and working through a public process the project will be better defined.

The existing outdoor pool is limited in its operation due to weather, and is in need of over \$50,000 in repairs. Staff believes that major repair/maintenance of the existing pool...such as resurfacing and locker room improvements...should be deferred and those funds redirected to assist with the funding of a development plan for a new facility. It is likely that the existing

tennis courts at Bud Cross Park would need to be relocated to accommodate the new Aquatics Center. Those facilities are also in need of significant repair.

While conceptual design work sufficient to begin the community vetting process can be done with in-house staff, architectural services should be retained early in the process. Staff will develop a proposal for architectural services for Council consideration if a decision is made to pursue this project.

Development of a “community center” is included in the 2002 Urban Renewal Plan, which makes such a project eligible for use of tax increment funds through the Urban Renewal Agency. However, Bud Cross Park is not located within the Urban Renewal Area. State Law provides that any projects constructed using URA funds must have a “direct benefit” to the Urban Renewal Area. Most Urban Renewal agencies have interpreted this to mean that the Urban Renewal-assisted project must be constructed within the project area. Staff will continue to research this matter.

Attachment(s):

- a. July 3, 2013, Curry Coastal Pilot article.

FBHAC seeks city's support

7-3-13
By Jane Stebbins
Pilot staff writer

The Friends of Brookings-Harbor Aquatic Center (FBHAC) hopes to secure the City of Brookings support – preferably financially – in getting a \$120,000 feasibility, planning and development study underway to build a multi-use, indoor recreation facility in town.

The nonprofit organization has raised more than \$5,000 toward a \$35,000 feasibility study, but more recently has found a study-and-design firm that can do almost all the preparatory work for about \$120,000.

City Manager Gary Milliman said in a city work session Monday that a development plan would include a market analysis and determine how large such a facility should be, where it should be located, how it should be operated and funded, and its long-term sustainability.

The initial idea was to build an indoor swimming facility, but it has grown to include everything from basketball courts to climbing walls and multi-use rooms for fitness classes, weight rooms, meeting space and possibly even a cafe.

"It could be, 'Do you want a lap pool or a competitive pool?'" said FBHAC chair Julian Leighton. "Or diving versus basketball, or a kitchen to teach people how to make healthy food. Gone are the days of indoor swimming pools that don't make ends meet."

The feasibility portion of the study would include finding out what kind of amenities citizens want in such a facility, how much they are

"Without the city's support, it probably won't happen."

— FBHAC boardmember
Vanessa Nidiffer

willing to pay, a plausible location and long-term funding. Recreation and water planners, and cost and site engineers would all be involved.

Currently, the city of Brookings subsidizes the municipal pool about \$70,000 each year, and the facility is only open during the summer.

"My first thought was the golf course; that immediately came to mind," Milliman said. "Perhaps if a feasibility study and marketing was done at the front end, we'd (have) known then what we know now about the feasibility in that market."

Salmon Run golf course has been in operation for 14 years and has yet to turn a profit, much less pay its rent.

"I also thought of the Fort Bragg (Calif. swim) facility that closed three months after it opened," said Milliman, a former city manager there. "It's open now, but only because of a new property tax. We need to avoid going into a venture that will not work – or determine how it will work."

FBHAC proponents at the meeting noted the city pool is outdated and expensive to maintain, there are only a few health facilities in town and seniors are limited in their options to participate in aquatic sports.

Gaining the support of the city council also gives credibility to FBHAC in the eyes of grant foundations.

"The city having skin in the game is vital," said Annette Klinefelter of the Brookings Vision Council, who is assisting the FBHAC group.

"We're asking you to have faith," board member Vanessa Nidiffer. "Look to the future. It's a leap of faith, but it'd be awesome. Without the city's support, it probably won't happen. It starts here."

Mayor Ron Hedenkog noted, the city just passed its budget, but could make amendments to the parks and recreation portion of that to help the group in its endeavors.

"My concerns are that we're having problems at the golf course that are going to cost us money," he said. "There is discussion to improve this clinic (Curry Medical Center in Brookings) to an emergency room or hospital – that'll probably end up being a tax question – and the development of the airport needs financing."

"A million dollars here, a million dollars there, and pretty soon, you're talking about some real money."

Councilman Jake Pieper said, "I support the concept, but other taxing issues are coming down the pike."

Council member Brent Hodges said the city needs to be sure people will truly support such a facility.

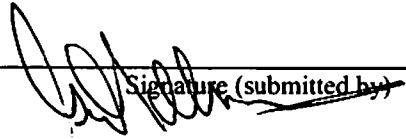
"You're not going to find anyone who doesn't like the Sheriff's Office," he said. "But then say, 'It'll cost this much,' and it's 'Whoa! Maybe the Sheriff's Office isn't that important.' We've seen a lot recently with how much people are willing to fork out."

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: June 23, 2014

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Parking Lot Agreement with C&K Market

Recommended Motion:

Motion to authorize the City Manager to execute the Parking area Agreement with C&K Market.

Financial Impact:

The City will budget for its share of periodic pavement maintenance.

Background/Discussion:

The parking lot in front of Ray's Market is partially owned by C&K Markets and partially owned by the City. The City and C&K have had an informal agreement concerning the maintenance and use of this parking lot for many years.

Representatives of C&K and the City met recently to review the ownership, maintenance and use of the parking lot. This resulted in the development of a written agreement that memorializes the understanding between the parties as to parking lot use, maintenance cost sharing, striping, access to the bus shelter and periodic use of the City-owned portion of the lot for promotional activities.

Attachment(s):

- a. Parking Area Agreement

After recording return to:

City of Brookings
898 Elk Drive
Brookings, OR 97415

PARKING AREA AGREEMENT

BETWEEN: City of Brookings,
a municipal corporation (City)

AND: C & K Market, Inc.
an Oregon corporation (C & K)
615 Fifth Street
Brookings, OR 97415

EFFECTIVE
DATE: The latest date this agreement is signed by the parties

RECITALS

- A.** City owns that certain parcel of real property located in Brookings, Curry County, Oregon, described on attached **Exhibit A** (City Property). C & K owns that certain real property located in Brookings, Curry County, Oregon, described on attached **Exhibit B** (C & K Property).
- B.** The C & K Property is developed with a building being operated as a Ray's Food Place grocery store with related site improvements and is north of and immediately adjacent to the City Property. The City Property is developed with a public park that is located along Cheto Avenue (Highway 101) near its intersection with 5th Street, and with a bus stop facility and public parking. The public parking area is immediately adjacent to the parking field on the C & K Property. Attached hereto as **Exhibit C** is a diagram which shows approximately the C K Property and the City Property, as well as the bus stop and paved area located on the City Property.
- C.** The subject of this agreement is the paved portion of the City Property as shown on **Exhibit C** (Subject Area).

AGREEMENT

- 1. Use of Subject Area.** The Subject Area shall continue to be used for the existing bus stop facility and related ingress to and egress from that facility, for public parking and for use by C & K as described in paragraph 2.
- 2. Use by C & K.** C & K will have the right to use the Subject Area for parking of its customers and employees, in common with public parking, and to conduct promotional activities on the Subject Area from time to time, such as outdoor sales, so long as such activities do not interfere with bus ingress and egress.
- 3. C & K Obligations.** C & K shall have the following obligations with respect to the Subject Area:
- 3.1 C & K shall maintain the Subject Area in good condition and repair, including resurfacing, overlays, and seal coating in conjunction with the similar work performed for the parking field on the C & K Property.

3.2 C & K shall maintain the striping in its existing configuration, as shown on Exhibit C.

3.3 During its use of the Subject Area for promotional activities C & K will keep the area in a clean and orderly condition.

3.4 At all times C & K shall maintain commercial general liability insurance with combined single limits of not less than \$1 million and to name City as an additional insured on the policy.

4. City Obligations. City shall have the following obligations with respect to the Subject Area:

4.1 City shall at all times keep and maintain the bus stop and related facilities in good condition and repair and free of debris.

4.2 City agrees to reimburse C & K for all costs and expenses incurred by C & K in performance if its obligations under 3.1 and 3.2 above. If such maintenance and repair work is performed in conjunction with similar work performed on the C & K Property, City's share of the cost shall be a proportionate share of the total cost. Reimbursement shall be made upon submission of a statement from C & K specifying the amount to be reimbursed, accompanied by a report of the work performed and the costs incurred. C & K shall notify City of its estimated share of cost not later than March 15 of any year to enable City to budget for such expense in the subsequent fiscal year.

5. Attorney Fees. In any proceeding to enforce or interpret this agreement, the prevailing party shall be entitled to recover from the losing party reasonable attorney fees, costs, and expenses incurred by the prevailing party before and at any trial, arbitration, bankruptcy, or other proceeding, and in any appeal or review.

6. Modification. No modification of this agreement shall be valid unless it is in writing and is signed by all of the parties.

7. Integration. This agreement is the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained in this agreement. This agreement shall supersede all prior communications, representations, and agreements, oral or written, of the parties.

8. Interpretation. The paragraph headings are for the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the paragraphs themselves. This agreement shall not be construed against the drafting party.

9. Severability. The invalidity of any term or provision of this agreement shall not affect the validity of any other provision.

10. Waiver. Waiver by any party of strict performance of any provision of this agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.

11. Binding Effect. This agreement shall be perpetual, shall run with the land and shall be binding on and inure to the benefit of the successors and assigns of the parties.

13. Governing Law. This agreement shall be interpreted and enforced according to the laws of the state of Oregon.

15. Exhibits. All exhibits referred to in this agreement are incorporated by reference.

16. Counterparts. This agreement may be executed by the parties in several counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one and the same instrument. Signatures communicated electronically or by facsimile transmission will be accepted for all purposes.

17. **Time of Essence.** Time is of the essence in the performance of this agreement.

City of Brookings	C & K Market, Inc.
By_____	By_____
Name_____	Name_____
Title_____	Title_____
Address: 898 Elk Drive Brookings, OR 97415	Address: 615 Fifth Street Brookings, OR 97415
Date:_____, 2014	Date:_____, 2014

STATE OF OREGON)
) ss.
County of Curry)

This instrument was acknowledged before me on _____, 2014, by
_____, as _____ of City of Brookings.

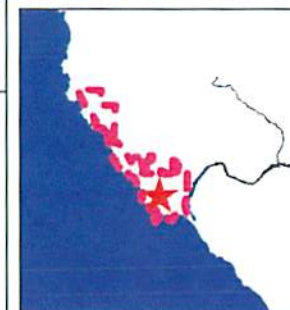
Notary Public – State of Oregon

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2014, by
_____, as _____ of C & K Market, Inc.

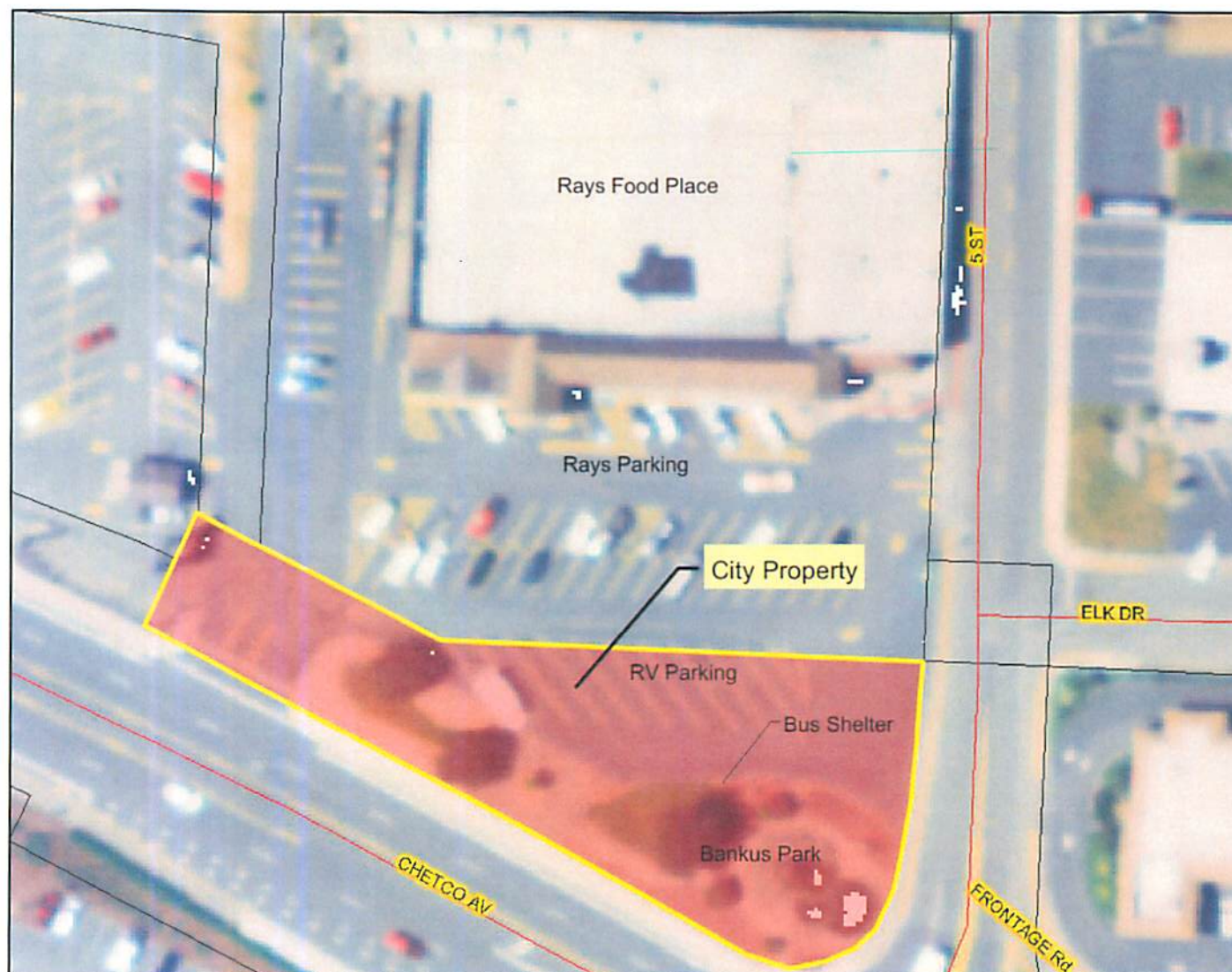
Notary Public – State of Oregon

Exhibit A



Legend

- RIVERS
- ROADS
- PARCELS
- URBAN GROWTH BOUNDARY
- OCEAN



0 80 160 240 ft.

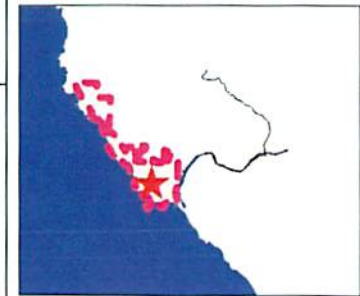
Map center: 42° 3' 18.28" N, 124° 17' 18.72" W



Scale: 1:822

This map is a public resource of general information. Use this information at your own risk. Curry County makes no warranty of any kind, expressed or implied, including any warranty of merchantability, fitness for any particular purpose or any other matter.

Exhibit B



Legend

- RIVERS
- ROADS
- PARCELS
- URBAN GROWTH BOUNDARY
- OCEAN

0 80 160 240 ft.

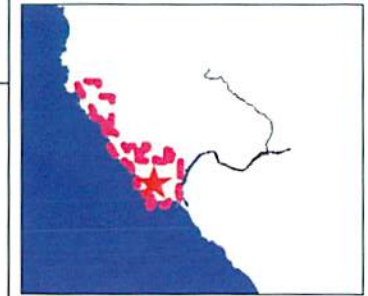
Map center: 42° 3' 18.62" N, 124° 17' 18.52" W



Scale: 1:822

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Exhibit C



Legend

- RIVERS
- ✗ ROADS
- PARCELS
- URBAN GROWTH BOUNDARY
- OCEAN



0 40 80 120 ft.

Map center: 42° 3' 17.51" N, 124° 17' 18.67" W



Scale: 1:411

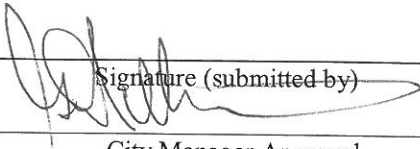
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CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: June 23, 2014

Originating Dept: City Attorney



Signature (submitted by)

City Manager Approval

Subject: Consent for Schwabe, Williamson and Wyatt to Represent South Coast Lumber Company in Connection with Water Utility Easements

Recommended Motion:

Motion to authorize the City Manager to execute the Conflict Waiver Letter dated June 18, 2014, with respect to the law firm of Schwabe, Williamson and Wyatt representing South Coast Lumber Company in water utility easement matters relating to the Brookings Airport Infrastructure Project.

Financial Impact: None.

Background/Discussion:

South Coast Lumber Company is seeking to retain the legal services of Schwabe, Williamson and Wyatt (SWW) with respect to negotiation of public utility easements for water reservoir and water lines related to the construction of the Brookings Airport Infrastructure Project.

The City of Brookings is a client of SWW with respect to water rights issues. SWW is requesting the City's consent to represent South Coast Lumber in this matter. Consent is needed for to enable SWW to avoid a conflict of interest.

Staff and the City Attorney have reviewed this matter and believe there is no conflict or potential conflict.

Attachment(s):

- a. Letter dated June 18, 2014, from Gregory Fullem of Schwabe, Williamson and Wyatt.

GREGORY D. FULLEM
Admitted in Oregon and Washington
Direct Line: 503-796-3736
E-Mail: gfullem@schwabe.com

June 18, 2014

VIA E-MAIL AND FIRST CLASS MAIL

Mr. Gary Milliman
City Manager
City of Brookings
898 Elk Drive
Brookings, Oregon 97415

Mr. Pat Fadden
South Coast Lumber Co.
885 Railroad Avenue
Brookings, Oregon 97415

Re: Conflict Waiver Letter

Gentlemen:

This letter relates to the request by South Coast Lumber Co. ("South Coast") that our law firm represent South Coast with respect to negotiation of public utility easements for water reservoir and water lines and a related construction access easement (collectively, the "Transaction").

Both the City of Brookings ("City") and South Coast are current clients of Schwabe Williamson & Wyatt, P.C. ("SWW") in connection with various unrelated matters. SWW's work for the City relates primarily to water rights and water supply matters, and in that regard may be indirectly related to the proposed Transaction involving South Coast. However, we understand the City would be represented in the Transaction by its general counsel, Ms. Martha Rice.

As described in more detail below, because of our current and on-going representation of both the City and South Coast, the proposed representation of South Coast in the Transaction would result in a conflict of interest for SWW under the Oregon Rules of Professional Conduct ("Rules.") Accordingly, the purpose of this letter is to provide disclosure to both clients of the apparent conflict, and to request consent from both the City and South Coast for our representation of South Coast with respect to the Transaction and any future matters unrelated to the current matter, and to our continuing representation of the City with respect to its water rights and future matters unrelated to the Transaction..

Mr. Gary Milliman
Mr. Pat Fadden
June 18, 2014
Page 2

Under the Section 1.7 of the Rules, a conflict exists if the representation of one client will be directly adverse to another client, or when there is a significant risk that the representation of one client will be materially limited by the lawyer's (or firm's) responsibilities to another client. Current client conflicts otherwise prohibited by ORCP 1.7 are permitted by ORCP 1.7(b) when 1) the lawyer can provide competent and diligent representation to each affected client, 2) the representation is not prohibited by law; 3) and the representation does not obligate the lawyer to contend for something on behalf of one client that the lawyer has a duty to oppose on behalf of another client. When these criteria are satisfied, the lawyer (or firm) may proceed with the proposed representation if each affected client gives informed consent, confirmed in writing.

In the proposed Transaction, a conflict would exist because SWW would be representing one client, South Coast, in a matter directly adverse to another client, the City. However, we believe the criteria are met to allow SWW to proceed, so long as both clients give informed consent. First, we believe that we will be able to provide competent and diligent representation to South Coast in the proposed Transaction without compromising our ability to continue to do the same in our on-going representation of the City in water rights matters, and to other unrelated matters for either client. The proposed representation is not prohibited by law, and because SWW would be representing only South Coast in the proposed Transaction, SWW would not have an obligation to contend for something on behalf of South Coast that the firm would have a duty to oppose for the City.

The requested consent does not include consent to us representing either South Coast or the City in litigation against the other in the matters described herein. If there ever is litigation regarding the Transaction, we would represent neither South Coast nor the City in such litigation.

Assuming the foregoing terms are acceptable to you, we ask that you please sign this letter and return it to us keeping a copy for yourself. We are required to recommend that you obtain independent legal advice in deciding whether to grant this consent.

Please feel free to call us if you have any questions.

Very truly yours,

Gregory D. Fullem

GDF:csb



Mr. Gary Milliman
Mr. Pat Fadden
June 18, 2014
Page 3

Consent granted this ____ day of June, 2014.

SOUTH COAST LUMBER CO., an Oregon
corporation

By: _____
Name: _____
Title: _____

Consent granted this ____ day of June, 2014.

THE CITY OF BROOKINGS, an Oregon
municipal corporation

By: _____
Name: _____
Title: _____

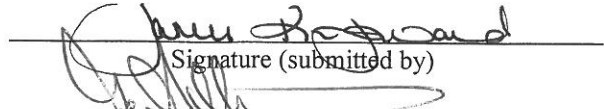



CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: June 23, 2014

Originating Dept: Finance and HR


Signature (submitted by)

City Manager Approval

Subject: Transfer of Appropriations for FY 2013-14 Budget.

Recommended Motion:

- Adopt Resolution 14-R-1037 approving appropriation transfers for insurance proceeds received.
- Adopt Resolution 14-R-1038 accepting grants and donations and appropriating those funds.
- Adopt Resolution 14-R-1039 transferring appropriations from contingency to Judicial, Legislative/Administration and Parks and Recreation, and Swimming Pool.
- Adopt Resolution 14-R-1040 approving appropriation transfers in the General Fund, Tourism Fund and the Dawson Bancroft Bond Fund.
- Adopt Resolution 14-R-1041, approving appropriation transfers in the General Fund and the Water Loan Fund.

Financial Impact:

There is no net impact to the 2013-14 budget; additional revenues equaled additional expenditures, expenditure increases netted against expenditure decreases.

Background /Discussion:

Oregon local budget law allows municipalities to make transfers of appropriations through a resolution adopted by the governing body, and accept donations and grants, and appropriate through a resolution; accept and appropriate insurance proceeds; appropriate loan proceeds, and transfer up to 15% of fund expenditures from contingency. Appropriation transfers are for the following funds:

General Fund – *Judicial* – Transfer \$2,000 of appropriations from contingency to the judicial. *Legislative/administrative* - Transfer \$500 of appropriations from contingency to the legislative/administration. *Police*;- accept and appropriate grants for \$7,448 from ODOT for Pedestrian Safety and DUII Enforcement. *Parks and Recreation* – accept and appropriate \$1,000 grant; Increased resources from Loan Proceeds of \$264,000 and appropriating Capital Outlay of \$264,000. Transfer \$9,000 of appropriations from contingency to Parks. *Planning* – accept and appropriate \$5,000 grant. *Swimming Pool* – Transfer \$5,000 of appropriations from contingency to Swimming pool. *Non-departmental* - accept grant for electronic entry lock system for city hall for \$7,500; accept insurance proceeds of \$161 for damage to Parks/Public Works vehicle; Transfer \$38,160 to Tourism Fund.

Streets Fund – Accept insurance proceeds of \$161 for damage to a Parks/Public Works truck.

Water Fund - Accept insurance proceeds of \$643 for damage to a Parks/Public Works truck.

Wastewater Fund – Accept insurance proceeds of \$643 for damage to a Parks/Public Works truck.

Tourism Fund – Increase Transfer In of \$38,160 and appropriate Materials and Services of \$38,160.

Dawson Bancroft Bond Fund – Decrease Contingency \$38,000 and include in Unappropriated Fund Balance.

Water Loan Fund – Increased resources from Loan Proceeds of \$4,514,575 and appropriating Materials and Services \$16,400 and Capital Outlay \$4,498,175.

Attachments:

Resolution 14-R-1037 Appropriate insurance proceeds

Resolution 14-R-1038 Accept and appropriate grants and donations

Resolution 14-R-1039 Appropriation transfer from contingency

Resolution 14-R-1040 Appropriation transfers

Resolution 14-R-1041 Appropriation transfers, loan proceeds

CITY OF BROOKINGS

RESOLUTION 14-R-1037

A RESOLUTION OF THE CITY OF BROOKINGS APPROVING APPROPRIATION TRANSFERS IN THE GENERAL FUND, STREETS FUND, WATER FUND, AND WASTEWATER FUND FOR INSURANCE PROCEEDS RECEIVED .

WHEREAS, the City of Brookings ("City") is a municipal corporation which is subject to Oregon Budget Law; and

WHEREAS, ORS 294.450 allows for a transfer of appropriation if authorized by the governing body; and

WHEREAS, the City needs to accept insurance proceeds from damage to a Parks/Public Works' vehicle, and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Brookings hereby authorizes a transfer of appropriation pursuant to ORS 294.338.

BE IT FURTHER RESOLVED THAT that for the fiscal year beginning July 1, 2013, and for purposes shown below are hereby revised by the City Council as follows:

General Fund

Resources:		
Other Revenue	\$	161
Requirements:		
Materials and services	\$	161

Streets Fund

Resources:		
Other Revenue	\$	161
Requirements:		
Materials and services	\$	161

Water Fund

Resources:		
Other Revenue	\$	643
Requirements:		
Materials and services	\$	643

Wastewater Fund

Resources:		
Other Revenue	\$	643
Requirements:		
Materials and services	\$	643

Passed by the City Council June 23, 2014, and made effective the same date.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

CITY OF BROOKINGS

RESOLUTION 14-R-1038

A RESOLUTION OF THE CITY OF BROOKINGS ACCEPTING SPECIFIC PURPOSE GRANTS AND DONATIONS AND APPROPRIATING THOSE FUNDS

WHEREAS, the City of Brookings ("City") is a municipal corporation which is subject to Oregon Budget Law; and

WHEREAS, ORS 294.338 allows the governing body to accept and appropriate specific purpose donations in the year of receipt, and

WHEREAS, the City Council accepts a grant of \$1,000 from the Wild Rivers Foundation for Kidtown in Azalea Park, and

WHEREAS, the City Council accepts a grant of \$7,500 from City County Insurance Services, for phase two of an electronic entry lock system for city hall, and

WHEREAS, the City Council accepts a grant of \$7,448 from Oregon Department of Transportation, for Pedestrian Safety Enforcement and DUII Enforcement, and

WHEREAS, the City Council accepts a grant of \$5,000 from Northwest Health, for the Vision Council, and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Brookings hereby accepts grants and appropriates funds pursuant to ORS 294.338.

BE IT FURTHER RESOLVED THAT that for the fiscal year beginning July 1, 2013, and for purposes shown below are hereby revised by the City Council as follows:

General Fund

Resources:	
Grants	\$ 20,948
Requirements:	
Legislative/administration	\$
Police	7,448
Parks	1,000
Planning	5,000
Non-departmental	7,500

passed by the City Council June 23, 2014, and made effective the same date.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

CITY OF BROOKINGS

RESOLUTION 14-R-1039

A RESOLUTION OF THE CITY OF BROOKINGS TRANSFERRING APPROPRIATIONS FROM GENERAL FUND CONTINGENCY TO LEGISLATIVE/ADMINISTRATION AND PARKS AND RECREATION.

WHEREAS, the City of Brookings ("City") is a municipal corporation which is subject to Oregon Budget Law; and

WHEREAS, ORS 294.463(2) allows the governing body to transfer from Contingency to other appropriations category, up to 15% of the total appropriations of the fund, and

WHEREAS, expenditures will be more than expected in the General Fund Judicial due to a software purchase, in the Legislative/Administrative from joining the Klamath Management Zone Fisheries Coalition, in Parks and Recreation department contractual, and the Swimming Pool due to utilities cost increases, and

WHEREAS, the City Council approves transferring those funds from Contingency, and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Brookings hereby transfers \$16,500 from General Fund Contingency to the Judicial, Legislative/Administration, Parks and Recreation, and Swimming Pool pursuant to ORS 294.463(2).

BE IT FURTHER RESOLVED THAT that for the fiscal year beginning July 1, 2013, and for purposes shown below are hereby revised by the City Council as follows:

General Fund

Requirements:

Judicial	\$ 2,000
Legislative/Administrative	500
Parks and Recreation	9,000
Swimming Pool	5,000
Contingency	\$ (16,500)

Passed by the City Council June 23, 2014, and made effective the same date.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

CITY OF BROOKINGS

RESOLUTION 14-R-1040

A RESOLUTION OF THE CITY OF BROOKINGS APPROVING APPROPRIATION TRANSFERS IN THE GENERAL FUND, TOURISM FUND, AND DAWSON BANCROFT BOND FUND.

WHEREAS, the City of Brookings ("City") is a municipal corporation which is subject to Oregon Budget Law; and

WHEREAS, ORS 294.463(3) allows for a transfer of appropriation if authorized by the governing body; and

WHEREAS, the City anticipates higher resources from carryover, in the General Fund from prior year unspent Tourism funds, and higher materials and services expenditures in the Tourism Fund, therefore the council anticipates higher transfers out of the General Fund, and

WHEREAS, the City will not spend any from the contingency in the Dawson Bancroft Bond Fund, the City will include the full balance in Unappropriated Fund Balance, and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Brookings hereby authorizes a transfer of appropriation pursuant to ORS 294.463(3).

BE IT FURTHER RESOLVED THAT that for the fiscal year beginning July 1, 2013, and for purposes shown below are hereby revised by the City Council as follows:

General Fund

Resources:	
Carryover	\$ 38,160
Requirements:	
Transfers Out	\$ 38,160

Tourism Fund

Resources:	
Transfers In	\$ 38,160
Requirements:	
Materials and services	\$ 38,160

Dawson Bancroft Bond Fund

Requirements:	
Contingency	\$ (38,000)
Unappropriated Fund Balance	38,000

Passed by the City Council June 23, 2014, and made effective the same date.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

CITY OF BROOKINGS

RESOLUTION 14-R-1041

A RESOLUTION OF THE CITY OF BROOKINGS APPROVING APPROPRIATION TRANSFERS IN THE STREETS SYSTEM REPLACEMENT FUND, THE WATER SYSTEM REPLACEMENT FUND, THE WASTEWATER SYSTEM REPLACEMENT FUND, AND THE STORMWATER SYSTEM REPLACEMENT FUND.

WHEREAS, the City of Brookings ("City") is a municipal corporation which is subject to Oregon Budget Law; and

WHEREAS, ORS 294.338(4) allows for a transfer of appropriation if authorized by the governing body; and

WHEREAS, the City received loan proceeds of \$264,000 during fiscal year 2013-14, to purchase public safety vehicles and refinance the Water Loan for \$4,514,575, and

WHEREAS, the City anticipates capital expenditures and additional loan costs,

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Brookings hereby authorizes a transfer of appropriation pursuant to ORS 294.338(4).

BE IT FURTHER RESOLVED THAT that for the fiscal year beginning July 1, 2013 and for purposes shown below are hereby revised by the City Council as follows:

General Fund

Resources:

Loan Proceeds	\$ 264,000
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Requirements:

Capital Outlay	\$ 264,000
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Water Loan Fund

Resources:

Loan Proceeds	\$ 4,514,575
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Requirements:

Materials and services	\$ 16,400
Capital Outlay	\$ 4,498,175

Passed by the City Council June 23, 2014, and made effective the same date.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

City of Brookings

CITY COUNCIL MEETING MINUTES

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

Monday, June 9, 2014

The City Council met in Executive Session at 6:30 PM in the City Manager's office, under authority of ORS 192.660(2)(f), "to consider information or records that are exempt by law," and ORS 192.660(2)(h), "to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed."

Call to Order

Mayor Hedenskog called the meeting to order at 7:00 PM.

Roll Call

Council Present: Mayor Ron Hedenskog, Councilors Bill Hamilton, Brent Hodges, Jake Pieper and Kelly McClain; a quorum present.

Staff Present: City Manager Gary Milliman, City Attorney Martha Rice, Planning Manager Donna Colby-Hanks and City Recorder Joyce Heffington.

Others Present: Pilot Reporter Jane Stebbins and 6 others.

Ceremonies/Appointments/Announcements

Mayor Hedenskog proclaimed the week of June 9 – 15 as Supreme Americanism Week.

June Yard of Month Awards:

- Residential: Kai Oberbeck & Jim Redel, 96406 Oceanside East Drive
- Commercial: Elias & Sonya Billington, Oxenfrē Public House

Ordinances

Ordinance 14-O-731 adding provisions to BMC Chapter 17.40, Public Open Space District, allowing conditional use of recreational vehicles as caretaker residences.

Manager Colby-Hanks provided the staff report.

Councilor Pieper moved, a second followed and Council voted unanimously to do a first reading of Ordinance 14-O-731 by title only.

Mayor Hedenskog read the title.

Councilor Pieper moved, a second followed and Council voted unanimously to do a second reading of Ordinance 14-O-731 by title only.

Mayor Hedenskog read the title.

Councilor Pieper moved, a second followed and Council voted unanimously to adopt Ordinance 14-O-731, [amending Chapter 17.40, Public Open Space District of the BMC].

Staff Reports

Execution of Lease Termination Agreement with the Claveran Group, LLC, and execution of Golf Course Lease Agreement with Wild Rivers Golf Management, LLC.

City Manager Milliman provided the staff report and said the lease termination agreement had now been signed.

Councilor McClain asked if there were any deed restrictions regarding the proposed RV park and Milliman said he didn't believe so. The uses in the new lease, Milliman said, were authorized under the original conditional use permit issued by the County.

Councilor McClain asked if the Transient Occupancy Tax (TOT) on the rental spaces would be added to the annual lease payment and applied toward the water source funding and Milliman said that it wouldn't be a TOT, but an equivalent amount in fees and those fees would go into the general fund. McClain then asked where the annual lease payment would be applied once the water source was paid for and Milliman said he imagined this was something Council would determine when it was time to consider renewal of the five year lease.

Councilor Hamilton asked if the proposed park models would be removable and go with the lessee, and Milliman said there was no specific proposal as to what the RV's will be, but they would need to be removable to be an RV.

Councilor McClain said the income from the RV spaces could be considerable and he wondered if there was anything to ensure the operation of a golf course. He said he also wondered if the City was charging enough for the land.

City Manager Milliman said that the lessee is authorized to operate a golf course and they would be in default if they failed to do so.

Public Comment:

Tony Parrish, Brookings, asked what other RV business owners thought of the City going into the RV business. He said it seemed like a "sweet deal," for the lessee, but they would be competing with another RV park just down the road from them. He said he "could go on forever" about what's wrong with the course and it didn't make sense to use the rent to help the lessee pay for their own business.

Councilor Pieper asked if there was another RV park inside City limits besides the one at Harris Beach State Park and Milliman said there was one in the East Harris Heights area. Pieper asked if the RV park would fall under the County's TOT rate and Milliman said the County didn't collect TOTs and the lessee would not be paying TOTs, but rather the equivalent of the TOT that other such businesses inside the City limits pays. Pieper then asked if they could legally bill the renters a TOT and Milliman said the lessee could add the fee to the rental amount.

Councilor Pieper said the agreement was not perfect. Council, he said, had been divided on this issue from the beginning, and in trying to move toward an agreement, concessions had been made on both sides. This was the best path forward, he said, and Council had been pretty unanimous in its intent to keep the golf course.

Councilor McClain said he agreed with Councilor Pieper that it wasn't a perfect deal, but it was good to have a new group taking over. The community needs the course, he said, and while it was easy to criticize, it was not easy running a golf course in this climate. He added that the City is a tourism destination for a lot of people and the golf course was a good thing to have.

Councilor Hodges said he was happy with the agreement and the best way to protect the investment was to use the rent to help fund the water source. He said he'd heard all the complaints but a great deal of improvement had occurred. Losing this asset, he said, after all the millions of dollars that had gone into it, would not be a good thing.

Councilor Hamilton said there were ways around the sewer issues, but his biggest concern was the RV Park. One of the most pristine RV Parks is less than two miles away on the Chetco River, he said. The City, he added, will just need to work out the bumps along the way.

Mayor Hedenskog said the Claveran Group had taken a raw piece of ground and made it into a nice golf course. He said it was a nice feature for the City and congratulated the new group, and Ed Murdock, in particular, for his tenacity. Hedenskog said he wanted to see the golf course work.

Councilor Pieper moved, a second followed and Council voted unanimously to authorize the City Manager to execute the Lease Termination Agreement with the Claveran Group, LLC.

Councilor McClain moved, a second followed and Council voted unanimously to authorize the City Manager to execute the Golf Course Lease Agreement with Wild Rivers Golf Management, LLC.

Execution of agreement with the Pelican Bay Arts Association for \$500 in Transient Occupancy Tax funds to promote the 2014 Festival of Art at Stout Park.

City Manager Milliman gave the staff report.

Councilor Hamilton said he thought it was a worthwhile venue and Councilor Hodges said there was a fairly large population of art-oriented people here and he would support it.

Councilor McClain said the event met two of his three criteria and he would support it.

Councilor Pieper said he agreed there was a large population of locals who would attend, but didn't see the event bringing a lot of out-of-town people to the area, especially not people who will be staying overnight.

Councilor McClain said these events usually have a community of followers and the out-of-town artists who participate would be staying overnight. He added that the bigger event gets, the more attendees it will have.

Mayor Hedenskog asked Councilor Hamilton how many out-of-town booths he would estimate were at last year's event and Hamilton said around fifteen. Hedenskog said he would guess it was around 50%.

Councilor Hodges pointed out that this event was not the same as the one that was held at the Port and if only half of the artists stayed in hotels it would be worth it.

Mayor Hedenskog asked if the Tourism committee could do some follow-up on the number of attendees and discussion ensued regarding event applicants providing follow-up reports with Hodges suggesting that the report should be tied to funding.

Councilor Hodges moved, a second followed and Council voted unanimously to execute an agreement with Pelican Bay Arts Association providing \$500 in

Transient Occupancy Tax funding for promotion of the the 2014 Festival of Art at Stout Park.

Direction to prepare draft resolution regarding the drafting of a ballot measure for the May 2015 election to enact a fuel tax.

City Manager Milliman presented the staff report.

Mayor Hedenskog asked if three cents would achieve the desired revenue and Milliman said three cents was the most common amount among the cities that had enacted a fuel tax. Hedenskog said Council really wanted to reach its goal and he was inclined to go with the year around, three cent option as seasonal rates wouldn't work well here.

Councilor Pieper said he anticipated receiving a lot of citizen input on this once it's in the paper, and he suggested getting a draft resolution prepared to get the ball rolling. He said he supported putting the question out to the voters.

Councilor McClain said the City needed \$300,000 annually to keep streets replaced and in good repair and this tax will cost the majority of people less than what they currently pay in SRF fees while getting tourists to help pay for street repairs and replacement.

Councilor Hodges said an excellent marketing campaign would be needed to get this passed. He also said commercial users should probably pay less and that the City should stop collecting the tax as soon as the \$300,000 goal was met and sunset it at some point.

Councilor Hamilton said he didn't want to rush into this or put it on the November ballot with other possible tax measures. He said he thought May would be best and collection should stop each year once the goal was reached.

Councilor McClain said the message needed to be that most residents will save money each year by getting rid of the SRF and putting the cost of street repair and maintenance to tourists.

Councilor Pieper said it was unlikely that they would reach the \$300,000 a year mark with a three cents fuel tax, and some revenue would probably be lost to the other side of the river.

Councilor Hedenskog agreed that there should be a lower commercial rate and that it should sunset after ten years when the street schedule outlined in the Willdan study was complet. After that, he said, the City could bring back a small SRF fee.

Councilor McClain said if the City had a system that generated more revenue at a lower cost, why would it ever reinstitute the SRF fee?

Councilor Hodges said ten years was too long and people wouldn't support it, and Councilor McClain said the revenue will always be needed to keep streets maintained, McClain said if they put a ten year limit on it he would be a "No" vote.

Councilor Hamilton said that people in this town had a tendency to vote no on anything that cost money.

Councilor McClain questioned the number of taxes with a sunset date and said he thought they were overestimating the number of people who really look at longevity. Council, he said, should be looking at long term policy instead.

Mayor Hedenskog made a motion to direct the City Manager to prepare a draft resolution directing the City Attorney to prepare a ballot title for the May 2015, election that would enact a fuel tax containing the following provisions and leave those provisions as a question for future town hall meetings. Following discussion, he amended the motion to direct the City Manager to hold town hall meetings to answer questions prior to voting on a resolution. Following further discussion, the motion was withdrawn.

Councilor Pieper moved, a second followed and Council voted unanimously to direct the City Manager to prepare a draft resolution directing the City Attorney to prepare a ballot title for the May 2015 election that would enact a fuel tax and contain the following provisions: a maximum tax rate of three (3) cents per gallon, a provision requiring the City Council to reduce the tax rate if annual revenues exceed \$300,000 adjusted by the CPI, that the rate 3.0 cents would be year-round, and eliminate the Street System Replacement Fee.

Consent Calendar

1. Approve Council minutes for May 27, 2014.
2. Accept Public Art Committee minutes for May 19, 2014.
3. Accept May 2014 Vouchers in the amount of \$199,300.08.

Councilor Hodges moved, a second followed and Council voted unanimously to approve the Consent Calendar as written.

Remarks from Mayor and Councilors

Mayor Hedenskog said he felt the gas tax could sell itself because it would drop water bills and spread the cost more equitably. He also said he was pleased with the new restaurant and downtown was looking really good.

Councilor Hamilton said he'd received a number of positive comments about the flower baskets and he would like to see more. He said he was sad to hear about the Shell station closing in Harbor but was pleased that another business would be moving in. He also said he was hoping to see more, new restaurants opening up this summer.

Adjournment

Mayor Hedenskog moved, a second followed and Council voted unanimously to adjourn by voice vote at 8:30 PM.

Respectfully submitted:

ATTESTED:

this _____ day of _____ 2014:

Ron Hedenskog, Mayor

Joyce Heffington, City Recorder

MINUTES
BROOKINGS PLANNING COMMISSION
April 8th, 2014

The regular meeting of the Brookings Planning Commission was called to order by Acting Chair Cheryl McMahan at 7:12pm in the Council Chambers at the Brookings City Hall on the above date. The following Commission members and staff were in attendance:

Commissioners Present: Curtis Williams, Betty Pomerleau, Gerry Wulkowicz, Cheryl McMahan,
Commissioners Absent: Bryan Tillung, Hedda Markham
Planning Staff Present: Planning Manager - Donna Colby-Hanks; Administrator - Jordan Fanning
Others Present: None

THE FOLLOWING ACTIONS WERE TAKEN IN THE PUBLIC HEARINGS:

Public hearing procedures addressed by Acting Chair McMahan

- Acting Chair McMahan opened the legislative hearing regarding File No. LDC-2-14 at 7:16pm.

File Description: In the matter of File No. **LDC-2-14**, revisions to Chapter 17.40 Public Open Space (PO/S) of the Brookings Municipal Code (BMC) to add the use of a recreational vehicle as living quarters for a caretaker as a conditional use permit. City initiated. The criteria used to decide this matter is found in Chapter 17.140 Amendments, of the BMC. This is a legislative hearing and the Planning Commission will make a recommendation to City Council on this matter.

No ex parte contact, bias, or conflict of interest was disclosed.

Planning Manager Colby-Hanks presented the staff report in full. No members of the public were present to comment on the matter. The public hearing portion of the file was closed at 7:20pm. The Commissioners deliberated on the matter. Commissioner Wulkowicz made a motion to recommend the proposal to the City Council using the language from attachment "B". The motion was seconded by Commissioner Williams. The application was approved unanimously.

APPROVAL of MINUTES

By a 4-0 vote, (motion: Commissioner McMahan, 2nd Commissioner Williams) the Planning Commission approved the minutes of the March 8th, 2014 Planning Commission meeting unanimously.

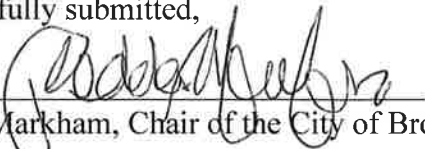
REPORT FROM PLANNING STAFF

- Next Planning Commission meeting will be held on May 6th. There is a possibility of having a second meeting in May on the 20th.

ADJOURNMENT

Meeting adjourned at 7:28pm

Respectfully submitted,


Hedda Markham, Chair of the City of Brookings Planning Commission
(Approved at the 6/03/14 meeting)

CITY OF BROOKINGS
Public Arts Committee – June 2, 2014

Members present: Committee Chair Judy May-Lopez, Lea Ray, Destiny Schwartz and Michelle Hanna

Also present: PTS/Sup. Director Tony Baron

Meeting called to order at 11:03 by May-Lopez. Motion made by Schwartz and seconded by Ray to approve the 5/19 minutes. Motion passed.

Old Business

Southern entrance to Brookings: No information received from Pryce regarding ODOT or geotechnical analyst. Will be put on 6/16 agenda. Schwartz questioned if this project was really a PAC project; Ray reported Clapson originally brought this project to the committee's attention.

Discussion on murals.

- May-Lopez had sent mural paint pricing info to Schwartz. Discussion on paint supplies; Schwartz will have paint order ready and send with vender information to Pryce (cc to Ziemer) by 6/13.
- Salon Dolce: Schwartz reported she had no positive information to report. Hopefully Clapson will report at 6/19 meeting on talking with building owner.
- Lovell Building: Preliminary mural application received from Michelle Hanna is not final; discussion followed. Hanna is working on the mural design, mostly nature scene incorporating plants from the community garden – possibly no people.
- Restroom/handicap wall at skate park: Baron reported this is ready to be painted and will send building photo to May-Lopez. Hanna will talk with kids who frequent the park and research mural possibilities.
- Discussion followed on Mill Beach: types of artwork, possibly a sculpture
- Discussion on face-in-the-hole-signs

On hold mural projects: Pool, Food Bank, Art Street Alley,

Project board: Hanna reported she and Clapson were in the process of gathering information; he was out of town and they would have more to report at the upcoming meeting.

Meeting adjourned at 11:55 p.m.

Upcoming PAC Meeting Date: 11am, June 16

ACTION:

Pryce – ODOT/Geotechnical analyst possibilities.

Schwartz – mural paint pricing info ready by 6/13 and send to Pryce

Clapson – talk with Shirley on building next to Salon Dolce mural

Baron – send Mill Beach building mural possibility to May-Lopez

Hanna – supply detailed list and structure measurements for Lovell mural by 6/13, talk with Lovell brothers, Spencer Reynolds and other artists, Dennis Wright (possible sculptor), work on fan tactical design for Kid Zone

May-Lopez draft a press release containing PAC recent info, send Kid Zone photos out to all

Pryce contact ODOT and geotechnical analyst re weed abatement at southern entrance

Clapson contact Shirley regarding Salon Dolce mural building

Baron – will talk with Gary Robertson about welding possibilities for Mill Beach mural.

May-Lopez will talk with SWOCC regarding possible welders.

Respectfully submitted,


Judy May Lopez, Committee Chair (approved at June 16, 2014 meeting)

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 11 MONTHS ENDING MAY 31, 2014

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	2,559,259.00	51,336.95	2,413,000.12	146,258.88	94.3
LICENSES AND PERMITS	97,500.00	4,284.84	75,469.66	22,030.34	77.4
INTERGOVERNMENTAL	237,600.00	18,125.34	131,286.29	106,313.71	55.3
CHARGES FOR SERVICES	133,000.00	17,535.57	402,288.33	(269,288.33)	302.5
OTHER REVENUE	130,500.00	2,863.73	106,303.06	24,196.94	81.5
TRANSFERS IN	240,452.00	.00	.00	240,452.00	.0
	<u>3,398,311.00</u>	<u>94,146.43</u>	<u>3,128,347.46</u>	<u>269,963.54</u>	<u>92.1</u>
<u>EXPENDITURES</u>					
JUDICIAL:					
PERSONAL SERVICES	15,156.00	1,227.96	14,825.51	330.49	97.8
MATERIAL AND SERVICES	7,770.00	370.60	6,912.70	857.30	89.0
CAPITAL OUTLAY	500.00	.00	.00	500.00	.0
	<u>23,426.00</u>	<u>1,598.56</u>	<u>21,738.21</u>	<u>1,687.79</u>	<u>92.8</u>
LEGISLATIVE/ADMINISTRATION:					
PERSONAL SERVICES	162,891.00	12,883.35	141,556.92	21,334.08	86.9
MATERIAL AND SERVICES	112,900.00	4,028.61	113,565.66	(665.66)	100.6
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>275,791.00</u>	<u>16,911.96</u>	<u>255,122.58</u>	<u>20,668.42</u>	<u>92.5</u>
POLICE:					
PERSONAL SERVICES	1,919,165.00	141,491.56	1,647,354.98	271,810.02	85.8
MATERIAL AND SERVICES	153,740.00	13,315.18	116,779.92	36,960.08	76.0
CAPITAL OUTLAY	57,400.00	(1,423.80)	228,723.98	(171,323.98)	398.5
TRANSFERS OUT	.00	.00	.00	.00	.0
	<u>2,130,305.00</u>	<u>153,382.94</u>	<u>1,992,858.88</u>	<u>137,446.12</u>	<u>93.6</u>
FIRE:					
PERSONAL SERVICES	158,330.00	13,439.86	137,211.74	21,118.26	86.7
MATERIAL AND SERVICES	109,000.00	6,038.74	57,118.00	51,882.00	52.4
CAPITAL OUTLAY	42,080.00	.00	120,304.28	(78,224.28)	285.9
TRANSFERS OUT	.00	.00	.00	.00	.0
	<u>309,410.00</u>	<u>19,478.60</u>	<u>314,634.02</u>	<u>(5,224.02)</u>	<u>101.7</u>
PLANNING AND BUILDING:					
PERSONAL SERVICES	182,871.00	14,893.08	165,051.21	17,819.79	90.3
MATERIAL AND SERVICES	45,600.00	9,277.08	26,500.76	19,099.24	58.1
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	<u>228,471.00</u>	<u>24,170.16</u>	<u>191,551.97</u>	<u>36,919.03</u>	<u>83.8</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 11 MONTHS ENDING MAY 31, 2014

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
PARKS & RECREATION:					
PERSONAL SERVICES	122,864.00	11,352.43	116,698.26	6,165.74	95.0
MATERIAL AND SERVICES	35,400.00	4,206.16	34,412.78	987.22	97.2
CAPITAL OUTLAY	10,000.00	.00	8,343.17	1,656.83	83.4
TRANSFERS OUT	.00	.00	.00	.00	.0
	168,264.00	15,558.59	159,454.21	8,809.79	94.8
FINANCE AND HUMAN RESOURCES:					
PERSONAL SERVICES	164,330.00	13,192.29	141,706.79	22,623.21	86.2
MATERIAL AND SERVICES	31,900.00	1,177.98	18,172.68	13,727.32	57.0
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	196,230.00	14,370.27	159,879.47	36,350.53	81.5
SWIMMING POOL:					
PERSONAL SERVICES	55,205.00	1,113.06	41,532.75	13,672.25	75.2
MATERIAL AND SERVICES	38,800.00	1,100.49	26,504.99	12,295.01	68.3
CAPITAL OUTLAY	10,000.00	.00	5,393.23	4,606.77	53.9
	104,005.00	2,213.55	73,430.97	30,574.03	70.6
NON-DEPARTMENTAL:					
MATERIAL AND SERVICES	132,500.00	13,675.67	81,063.07	51,436.93	61.2
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	52,000.00	.00	.00	52,000.00	.0
CONTINGENCIES AND RESERVES	639,709.00	.00	.00	639,709.00	.0
	824,209.00	13,675.67	81,063.07	743,145.93	9.8
	4,260,111.00	261,360.30	3,249,733.38	1,010,377.62	76.3
	(861,800.00)	(167,213.87)	(121,385.92)	(740,414.08)	(14.1)

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 11 MONTHS ENDING MAY 31, 2014

STREET FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
INTERGOVERNMENTAL	440,000.00	30,925.90	431,007.94	8,992.06	98.0
OTHER REVENUE	12,450.00	80.00	4,297.41	8,152.59	34.5
TRANSFER IN	.00	.00	.00	.00	.0
	<u>452,450.00</u>	<u>31,005.90</u>	<u>435,305.35</u>	<u>17,144.65</u>	<u>96.2</u>
<u>EXPENDITURES</u>					
EXPENDITURES:					
PERSONAL SERVICES	168,706.00	14,408.37	150,732.59	17,973.41	89.4
MATERIAL AND SERVICES	194,100.00	11,561.44	179,953.45	14,146.55	92.7
CAPITAL OUTLAY	141,300.00	866.92	73,987.80	67,312.20	52.4
TRANSFERS OUT	27,015.00	.00	.00	27,015.00	.0
CONTINGENCIES AND RESERVES	105,329.00	.00	.00	105,329.00	.0
	<u>636,450.00</u>	<u>26,836.73</u>	<u>404,673.84</u>	<u>231,776.16</u>	<u>63.6</u>
	<u>636,450.00</u>	<u>26,836.73</u>	<u>404,673.84</u>	<u>231,776.16</u>	<u>63.6</u>
	<u>(184,000.00)</u>	<u>4,169.17</u>	<u>30,631.51</u>	<u>(214,631.51)</u>	<u>16.7</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 11 MONTHS ENDING MAY 31, 2014

WATER FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
SOURCE 03	.00	.00	.00	.00	.0
CHARGES FOR SERVICES	1,413,500.00	115,839.33	1,271,629.27	141,870.73	90.0
OTHER INCOME	9,000.00	3,510.00	45,901.16	(36,901.16)	510.0
TRANSFERS IN	.00	.00	10,640.50	(10,640.50)	.0
	<u>1,422,500.00</u>	<u>119,349.33</u>	<u>1,328,170.93</u>	<u>94,329.07</u>	<u>93.4</u>
<u>EXPENDITURES</u>					
WATER DISTRIBUTION:					
PERSONAL SERVICES	370,334.00	30,151.08	332,428.25	37,905.75	89.8
MATERIAL AND SERVICES	176,350.00	7,813.18	134,161.22	42,188.78	76.1
CAPITAL OUTLAY	59,900.00	543.81	39,274.58	20,625.42	65.6
	<u>606,584.00</u>	<u>38,508.07</u>	<u>505,864.05</u>	<u>100,719.95</u>	<u>83.4</u>
WATER TREATMENT:					
PERSONAL SERVICES	255,128.00	19,818.73	214,810.91	40,317.09	84.2
MATERIAL AND SERVICES	173,100.00	10,479.72	136,975.22	36,124.78	79.1
CAPITAL OUTLAY	24,900.00	543.81	17,388.45	7,511.55	69.8
TRANSFERS OUT	384,498.00	.00	.00	384,498.00	.0
CONTINGENCIES AND RESERVES	133,290.00	.00	.00	133,290.00	.0
	<u>970,916.00</u>	<u>30,842.26</u>	<u>369,174.58</u>	<u>601,741.42</u>	<u>38.0</u>
DEPARTMENT 24:					
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
	<u>1,577,500.00</u>	<u>69,350.33</u>	<u>875,038.63</u>	<u>702,461.37</u>	<u>55.5</u>
	<u>(155,000.00)</u>	<u>49,999.00</u>	<u>453,132.30</u>	<u>(608,132.30)</u>	<u>292.3</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 11 MONTHS ENDING MAY 31, 2014

WASTEWATER FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
SOURCE 03	.00	.00	.00	.00	.0
CHARGES FOR SERVICES	2,831,000.00	240,885.55	2,608,261.73	222,738.27	92.1
OTHER REVENUE	1,000.00	.00	391.47	608.53	39.2
TRANSFER IN	.00	.00	10,640.50	(10,640.50)	.0
	<u>2,832,000.00</u>	<u>240,885.55</u>	<u>2,619,293.70</u>	<u>212,706.30</u>	<u>92.5</u>
<u>EXPENDITURES</u>					
WASTEWATER COLLECTION:					
PERSONAL SERVICES	475,680.00	38,088.44	405,914.39	69,765.61	85.3
MATERIAL AND SERVICES	257,150.00	4,387.26	149,847.81	107,302.19	58.3
CAPITAL OUTLAY	36,900.00	543.81	14,928.30	21,971.70	40.5
	<u>769,730.00</u>	<u>43,019.51</u>	<u>570,690.50</u>	<u>199,039.50</u>	<u>74.1</u>
WASTEWATER TREATMENT:					
PERSONAL SERVICES	446,888.00	35,096.89	379,002.38	67,885.62	84.8
MATERIAL AND SERVICES	509,000.00	37,747.26	364,548.48	144,451.52	71.6
CAPITAL OUTLAY	636,900.00	4,931.95	96,351.62	540,548.38	15.1
TRANSFERS OUT	1,094,801.00	.00	.00	1,094,801.00	.0
CONTINGENCIES AND RESERVES	218,681.00	.00	.00	218,681.00	.0
	<u>2,906,270.00</u>	<u>77,776.10</u>	<u>839,902.48</u>	<u>2,066,367.52</u>	<u>28.9</u>
	<u>3,676,000.00</u>	<u>120,795.61</u>	<u>1,410,592.98</u>	<u>2,265,407.02</u>	<u>38.4</u>
	<u>(844,000.00)</u>	<u>120,089.94</u>	<u>1,208,700.72</u>	<u>(2,052,700.72)</u>	<u>143.2</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 11 MONTHS ENDING MAY 31, 2014

URBAN RENEWAL AGENCY FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	545,678.00	5,553.68	504,683.41	40,994.59	92.5
INTERGOVERNMENTAL	.00	.00	.00	.00	.0
OTHER REVENUE	1,000,500.00	.00	90.37	1,000,409.63	.0
	<u>1,546,178.00</u>	<u>5,553.68</u>	<u>504,773.78</u>	<u>1,041,404.22</u>	<u>32.7</u>
<u>EXPENDITURES</u>					
GENERAL:					
PERSONAL SERVICES	.00	.00	.00	.00	.0
MATERIAL AND SERVICES	70,000.00	89.09	26,181.60	43,818.40	37.4
CAPITAL OUTLAY	1,677,257.00	4,013.16	9,863.16	1,667,393.84	.6
DEBT SERVICE	.00	.00	.00	.00	.0
TRANSFERS OUT	448,921.00	.00	.00	448,921.00	.0
CONTINGENCIES AND RESERVES	.00	.00	.00	.00	.0
	<u>2,196,178.00</u>	<u>4,102.25</u>	<u>36,044.76</u>	<u>2,160,133.24</u>	<u>1.6</u>
DEPARTMENT 20:					
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
DEPARTMENT 22:					
MATERIAL AND SERVICES	.00	.00	.00	.00	.0
DEBT SERVICE	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
DEPARTMENT 24:					
CONTINGENCIES AND RESERVES	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
	<u>2,196,178.00</u>	<u>4,102.25</u>	<u>36,044.76</u>	<u>2,160,133.24</u>	<u>1.6</u>
	<u>(650,000.00)</u>	<u>1,451.43</u>	<u>468,729.02</u>	<u>(1,118,729.02)</u>	<u>72.1</u>

City of Brookings

URBAN RENEWAL AGENCY MEETING MINUTES

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Tuesday, May 27, 2014

Call to Order

Chair Hedenskog called the meeting to order at 8:07 PM.

Roll Call

Agency Present: Chair Ron Hedenskog, Directors Bill Hamilton, Brent Hodges, Jake Pieper, and Kelly McClain; a quorum present.

Staff Present: Executive Director Gary Milliman, Finance & HR Director Janell Howard, City Attorney Martha Rice and City Recorder Joyce Heffington.

Others Present: Curry Coastal Pilot Reporter Jane Stebbins and no others.

Consent Calendar

1. Approve March 24, 2014 Urban Renewal Agency minutes.

Chair Hedenskog moved, a second followed and the Agency voted unanimously to approve the Consent Calendar as written.

Resolutions

Public hearing and approval of Agency appropriations for the FY 2014-15 Budget.

Mayor Hedenskog opened the public hearing at 8:10 PM. No comments were made and the hearing was closed at 8:10 PM.

Director Pieper moved, a second followed and the Agency voted unanimously to adopt Resolution 14-R-1036, adopting the Brookings' Urban Renewal Agency's budget, declaring tax increment funding as provided under Section 1c, Article IX of the Oregon Constitution and ORS Chapter 457, and making appropriations for the 2014-15 fiscal year.

Adjournment

Chair Hedenskog moved, a second followed and the Agency voted unanimously to adjourn by voice vote at 8:12 PM.

Respectfully submitted:

ATTESTED:

this ____ day of _____ 2014:

Ron Hedenskog, Chair

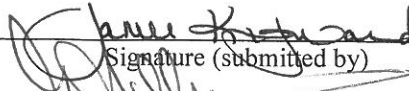
Joyce Heffington, City Recorder

BROOKINGS URBAN RENEWAL AGENCY

AGENDA REPORT

Meeting Date: June 23, 2014

Originating Dept: Finance & HR



Signature (submitted by)

City Manager Approval

Subject:

Transfer of Appropriations for FY 2013-14.

Recommended Motion:

- Adopt Resolution 14-R-1042, approving appropriation transfers for the Brookings' Urban Renewal Agency for 2013-14.
- Adopt Resolution 14-R-1043, approving budget appropriations for the Brookings' Urban Renewal Agency for the 2013-14 refinancing of debt.

Financial Impact:

There is no net impact to the fiscal year 2013-14 budget.

Background /Discussion:

Oregon local budget law allows municipalities to make transfers of appropriations through a resolution adopted by the governing body.

This transfers \$15,000 from capital outlay to materials and service in the General Fund. This is needed due to the refinancing costs.

Attachment:

Resolution 14-R-1042 budget transfers

Resolution 14-R-1043 budget appropriations for refinancing of debt

URBAN RENEWAL AGENCY OF THE CITY OF BROOKINGS

RESOLUTION 14-R-1042

A RESOLUTION OF THE URBAN RENEWAL AGENCY OF THE CITY OF BROOKINGS APPROVING APPROPRIATION TRANSFERS IN THE GENERAL FUND.

WHEREAS, the Urban Renewal Agency of the City of Brookings is a municipal corporation which is subject to Oregon Budget Law, and

WHEREAS, ORS 294.463(3) allows for a transfer of appropriation if authorized by the governing body, and

WHEREAS, the Agency anticipates higher materials and services expenditures and lower capital expenditures, and

NOW, THEREFORE BE IT RESOLVED THAT the Board of the Urban Renewal Agency of the City of Brookings hereby authorizes a transfer of appropriations pursuant to ORS 294.463(3).

BE IT FURTHER RESOLVED THAT the Board of the Urban Renewal Agency of the City of Brookings, Curry County, Oregon, for the fiscal year beginning July 1, 2013, and for purposes shown below are hereby revised as follow:

	<u>General Fund</u>
Requirements:	
Materials and services	15,000
Capital Outlay	\$ (15,000)

Passed by the City Council on June 23, 2014, and made effective the same date.

Attest:

Chair Ron Hedenskog

City Recorder Joyce Heffington

URBAN RENEWAL AGENCY OF THE CITY OF BROOKINGS

RESOLUTION 14-R-1043

**A RESOLUTION OF THE URBAN RENEWAL AGENCY OF THE CITY OF BROOKINGS
APPROVING APPROPRIATION TRANSFERS IN THE GENERAL FUND.**

WHEREAS, the City of Brookings ("City") is a municipal corporation which is subject to Oregon Budget Law; and

WHEREAS, ORS 294.338(4) allows for a transfer of appropriation if authorized by the governing body; and

WHEREAS, the City received loan proceeds of \$2,685,000 during fiscal year 2013-14, to refinance the Urban Renewal Bond, and

WHEREAS, the City anticipates higher debt service in the Urban Renewal Debt Service Fund, and

THEREFORE, BE IT RESOLVED THAT the City Council of the City of Brookings hereby authorizes a transfer of appropriation pursuant to ORS 294.338(4).

BE IT FURTHER RESOLVED THAT that for the fiscal year beginning July 1, 2013, and for purposes shown below are hereby revised by the City Council as follows:

Urban Renewal Debt Service Fund

Resources:

Loan Proceeds	\$ 2,685,000
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Requirements:

Capital Outlay	\$ 2,685,000
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Passed by the City Council June 23, 2014, and made effective the same date.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington