

City of Brookings **WORKSHOP Agenda**

CITY COUNCIL

Monday July 2, 2012, 4:00pm

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

A. Call to Order

B. Roll Call

C. Topics

1. Discussion regarding possible actions with regards to recorded deferred improvement agreements (DIAs) on Hassett Street. [Public Works, pg 2]
 - a. Location map of DIAs [pg. 6]
 - b. DIA assessment roll table [pg. 7]
 - c. Letters received from property owners [pg. 8]
 - d. Sample letter sent to property owners [pg. 15]
2. Strategic Plan Update [City Manager/Department Directors, pg. 19]
3. Revisions to BMC Title 2 [City Manager, pg. 21]
 - a. Draft revisions [pg. 22]

D. Council Member Requests for Workshop Topics

E. Adjournment

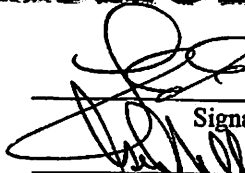
All public City meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. Please contact 469-1102 if you have any questions regarding this notice.

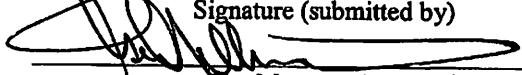
CITY OF BROOKINGS

Council WORKSHOP Report

Workshop Date: June 25, 2012

Originating Dept: Public Works



Signature (submitted by)


City Manager Approval

Subject: Deferred Improvement Agreements at Hassett Street

Recommendation: This project is time sensitive and it is imperative at the next Council meeting to make a decision on several factors related to the Hassett Street improvements and calling in the Deferred Improvement Agreements (DIAs).

Hassett Street design options that need to be decided include;

- 1) The street improvement width; either 36' per design plans or 28' per Land Development Code, or only repave the width as it exists now which varies from 20' to 36'.
- 2) Undergrounding of storm drainage.

In addition Council will decide on one of several alternatives for the DIAs;

- 1) Do not call in the DIAs at this time and proceed with reconstructing the street with no frontage improvements and minimal drainage improvements.
- 2) Call in the DIAs and levy the full proportionate share to each property owner for either a 36' street or 28' street. Place liens on the property where the share is not paid.
- 3) Establish a fixed contribution or reduced appointment, such as a lower amount per lineal foot of frontage or eliminate some element of the improvements, such as street reconstruction, from the owner's responsibility.
- 4) Eliminate storm drain improvements from the project and consider the DIA requirements fulfilled without storm drain improvements.

Financial Impact: Staff has been moving forward with street improvement design that included a 36' widening, curb, gutter, and drainage improvements along with a 5 foot wide sidewalk on the south side of Hassett St. All DIA owners were sent notification of the costs associated with a 36 foot wide road, drainage and sidewalk improvements. It was only recently discovered that this extent of widening may not be consistent with the land development code. Although Hassett Street could be a collector street in the future similar to Easy Street and Ransom Street, Hassett Street is currently not considered a collector street in the transportation master plan. Per land development code Table 17.170.060, a residential local street classification such as Hassett St. specifies a minimum road surface width of 28 feet.

Please refer to the following summary of options and financial impacts of each option.

- 1) Basic Bid (36' Current design) = \$369,000
- 2) Basic Bid (Modified design with 28' road) = \$276,000
- 3) Repave existing road widths \$202,500

Additive Alternate No. 1 (add'l 18" storm drain) = \$13,600

Additive Alternate No. 2 (sidewalk on south) = \$45,150

Background/Discussion:

The City Council directed staff to investigate DIA agreements for this street improvement project. This is the first time the City has pursued calling in the DIAs for multiple properties on a street improvement project. For over twenty years, it has been the City's policy to require developers to make frontage improvements to lots that partition or "subdivide" one larger lot into smaller lots or building a new structure on a vacant lot. In many cases, the developer cannot make street frontage improvements at the time of the development due to difficult site conditions which require an overall street engineering plan or drainage improvement plan. For these cases, City Planning has required the developer/owner to sign a deferred improvement agreement (DIA) obligating the property owner or the future property owner to contribute at a later date. There is no time limit on the DIAs, and costs depend on the extent of improvements and the current costs of construction at the time of implementation. DIAs are recorded documents and should appear on a title report. In total, there are currently 196 DIAs recorded within the City limits. Common verbiage of the DIAs include "the construction of curb, gutter and sidewalk, plus pavement to match existing pavement, and any underground storm drain facilities along the street frontage..." BMC 17.170.070 describes the City's policy regarding DIAs.

Staff determined there were eight properties with DIAs fronting Hassett Street within the limits of the project. Staff sent each owner certified mail informing them of the DIA implementation and estimated costs. Please note that none of the original owners who signed the DIAs are the current owners of the property. The general consensus was surprise and distaste of the City expecting them to pay large sums during the current economic down turn or at all. There was also a question as to why they were being charged and their neighbors were not. Per BMC 17.170.070, the City can impose a local improvement district (LID) if more than half of the parcels have DIAs. In this case, there are not enough DIAs to impose a LID; and LID is not required.

The DIA costs were based on the length of property frontage and the unit price for each improvement fronting the property. The DIA agreements specify the owner is responsible for the improvements only fronting the property. Staff did not include the engineering costs in the DIA since the project was already targeted for improvements and to offset the total DIA costs. According to the City Attorney, if the property owners fail to pay their proportionate share of the improvement costs, the City's remedy is to record a lien on the property. That lien would likely be paid at the time of a future property sales transaction.

The City currently has no payment plan for the DIAs. The City Council could authorize creating such a plan, similar to that which is currently available for SDCs. Under the SDC payment program, the principal amount of SDC can be financed for a period of up to 10 years, the current SDC interest rate is 9 percent.

Six of the effected owners sent in letters and a summary of their concerns are as follows;

DIA 32 – 622 Hassett Street, Owner Dianne Moffit, \$11,254.37

- The owner is on a fixed income.
- The owner feels the City is being harsh and unfair.
- The owner was misinformed by the realtor in escrow on the DIA.

DIA 32 – 626 Hassett Street, Tax lots 3404 and 3403 Owner Charles and Karen Henley, \$22,478.19

- The City attorney determined that the Owner is not liable for the DIA because the DIA was recorded after the property was sold to the Henleys.

DIA 33 – 520 Hassett Street, Owner Tami Konkel \$13,127.42

- The property is in negative equity and can't borrow against it to pay for DIA.
- The owner was misinformed by the realtor in escrow on the DIA.
- The expense of the DIA affects her ability to pay for her son's college education. Owner would consider a loan with low to zero interest.

DIA 44 – 530 Hassett Street, Owner Glenn Julyan \$8,360.39 (4/88)

- The financial impact of a DIA was not properly disclosed.
- The property is in negative equity.
- The property also fronts Weaver Lane, and the DIA includes more improvements to Weaver Lane.
Owner is seeking reduction of DIA costs and elimination of the DIA from title for Weaver Lane.

DIA 151 – 523 Hassett Street, Owner James Davis, \$35,593.37

The owner did not respond to the certified mail. The Public Works Director hand delivered the letter to Mr. Davis. Mr. Davis indicated he was aware of the DIA, would prefer to have the costs lienied against his property, and would like to build the sidewalk portion himself.

DIA 164 – 600 Hassett Street, Owner Brian and Tiffany Hodge, \$13,185.30

- The owner doesn't understand why they are paying for road paving which is regular City maintenance.
- The owners were in escrow before the DIA recorded.
- The owner has concerns about the drainage improvements. Staff recommends giving the Owner credit for the drainage portion since the City approved it at this time and now determines it to be undersized.

DIA 164 – 608 Hassett Street, Owner Raymond Davis, \$3,554.77

The owner signed the certified mail but has not contacted City staff.

Policy Considerations:

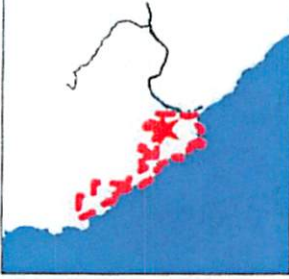
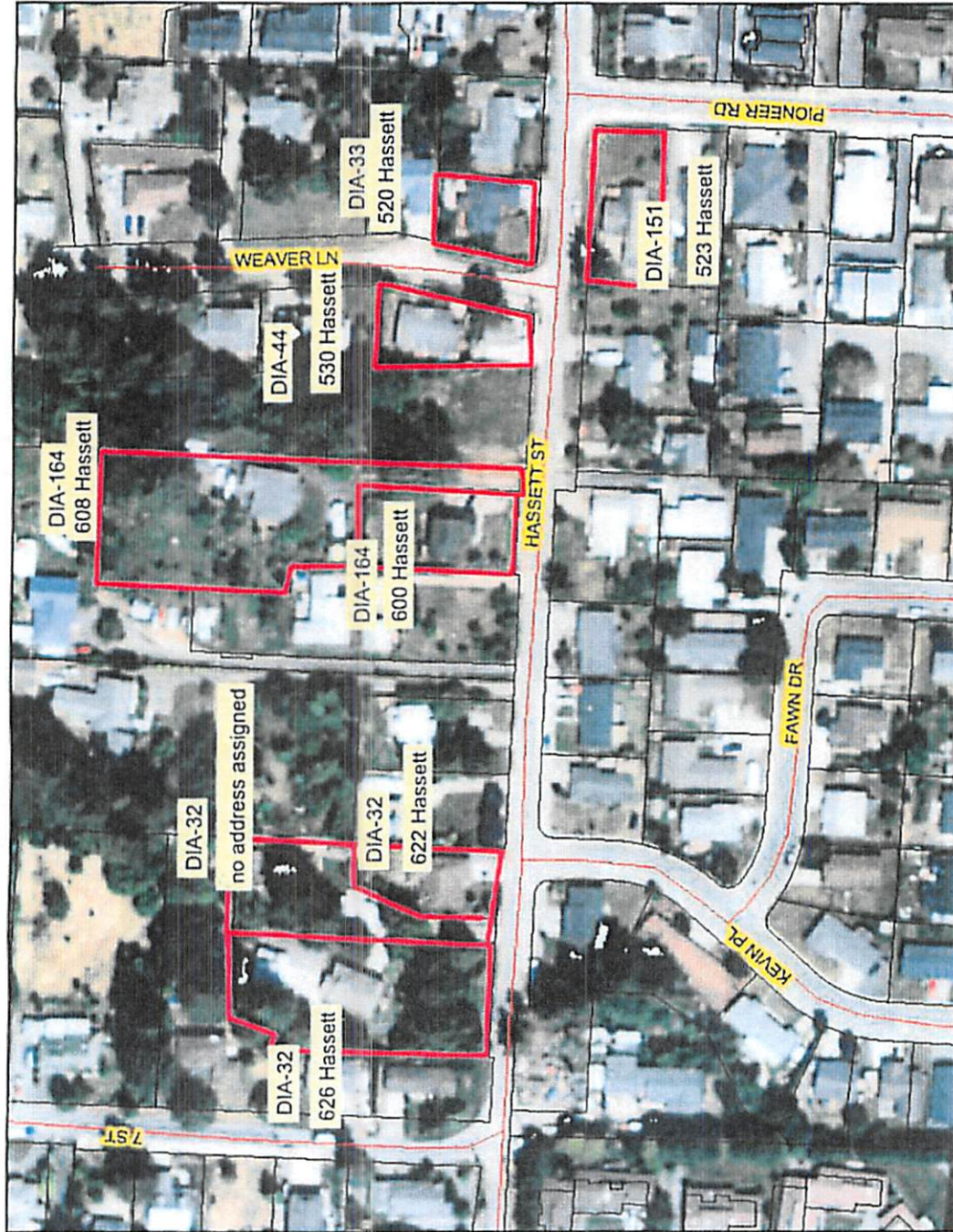
Several of the property owners believe that their obligations to pay for improvements should be eliminated or modified because they were not advised of the existence and consequence of the DIA by their realtor, their title company or the seller or that the property developer advised them that the DIA would likely never be called in. These reasoning's attempt to shift the burden of misinformation or lack of due diligence of the City. Accepting these arguments as rationale for not requiring compliance with legally binding and recorded agreements would establish a dangerous precedent for dealing with the remaining 190 DIAs that have been approved over a period of more than 20 years.

Staff will be following up at a future workshop with a proposal to revamp the current DIA policy going forward.

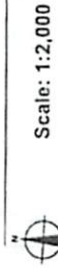
Attachment(s):

- a. Location map of DIA
- b. DIA Assessment Roll Table
- c. Letters from property owners
- d. Copy of letter to residents

Hassett Street DIA's



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



0 200 400 600 ft.

Map center: 42° 3' 46.0" N, 124° 16' 53.3" W

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.

DIA Assessment Roll

DIA No.	Street Address	Owner	Map Number / Tax Lot No.	Lineal Foot Frontage	Drainage	Street	Sidewalk	Final Assessment	Final Assessment with Engineering Fees (20%)
DIA-32	626 Hassett	Charles and Karen Henley	40-13-31DD Tax Lot # 3404	114.81	\$2,385.37	\$16,073.40		\$0.00	\$22,150.53
DIA-32	626 Hassett	Charles and Karen Henley	40-13-31DD Tax Lot # 3403	25	\$549.42	\$3,500.00		\$0.00	\$4,823.30
DIA-32	622 Hassett	Dianne Moffit	40-13-31DD Tax Lot # 3400	70	\$1,454.37	\$9,800.00		\$11,254.37	\$13,505.24
DIA-164	600 Hassett	Brian, Tiffany Hodge	40-13-31DD Tax Lot # 4006	82.01	\$1,703.90	\$11,481.40		\$11,481.40	\$15,822.36
DIA-164	608 Hassett	Raymond Davis	40-13-31DD Tax Lot # 4001	22.11	\$459.37	\$3,095.40		\$3,554.77	\$4,265.73
+DIA-44	530 Hassett	Glenn P. Julyan	40-13-32CC Tax Lot # 803	52	\$1,080.39	\$7,280.00		\$8,360.39	\$10,032.47
DIA-33	520 Hassett	Tamra Konkle	40-13-32CC Tax Lot #304	81.65	\$1,696.42	\$11,431.00		\$13,127.42	\$15,752.90
DIA-151	523 Hassett	James Davis	41-13-05BB Tax Lot # 400	153.68	\$3,192.06	\$21,515.20	\$10,885.21	\$35,593.37	\$42,712.04
Total								\$83,371.72	

Did not respond in writing

Total without drainage improvements \$75,488.21

May 25, 2012

City of Brookings
City Manager, Gary Milliman
898 Elk Drive
Brookings, OR 97415

RE: DIA Hassett Street

Mr. Milliman,

I write this letter to you regarding the DIA implementation for the Hassett Street improvements. I received a letter stating that I am expected to pay \$13,127.42 for the improvements to be made for streets and sidewalks. In this poor economy the fact our City would expect home owners to have the ability to pay such an amount is more than a disappointment. I feel it is a disregard to the struggles all of us have been facing for the past five years. Those that may have wanted to sell homes cannot due to depreciation and most being "upside down" in their properties. I know I am in this position of being upside down which will prevent me from being able to borrow funds to pay this unexpected and immediate notice of an anticipated amount due.

When I purchased the home I was misinformed by my Realtor as to what the DIA lien meant. I was told that if I were to remodel or make improvements to the property I would then be required to put in sidewalks. I was NOT told that the City can impose the improvements when they feel it necessary! You can imagine my dismay when receiving the letter due to the misinformation.

The amount that is expected of me to pay is funds that I do not have available. I have had to struggle to make ends meet over the last five years. Due to my profession I am directly affected by the economic conditions we have been faced with. I only recently have been able to feel a little more at ease. I now have to repay debt I had to incur to handle the monthly expenses I have had all while trying to save what little I can for my sons college education in the next two years.

The letter mentions the City will provide financing but makes no mention as to the terms. If we are to be expected to pay this high amount I would encourage the repayment terms be set with little to no interest and an amount far less than what is estimated, with no specific timeline to be paid unless the home is to be sold and the lien is to be cleared.

Please take into consideration the timing of the expense as well as the amount and sudden notice and reconsider the decision.

Respectfully,

Tami Konkell

DIANE & JERRY MOFFIT 622 HASSETT ST

June 11, 2012

Gary Milliman
City Manager
898 Elk Drive
Brookings, Or 97415

To Whom It May Concern:

We recently received a letter from the City of Brookings informing us that street improvements were being considered on Hassett Street between Old Country road and 7th Street. The road surface is definitely Third World, largely due to the excessive construction traffic in developments near the cemetery . We have serious issues about how the City is handling this situation.

1) The threatening and imperious tone of the letter.

Unless we come up with around \$12,000 by December of 2012, a lien will be put on our property. Do you expect people on fixed incomes to suddenly find an available twelve grand?

2) The inequity of the funding.

Six or seven properties are being asked to bear the cost for improvements but will be enjoyed by all. We understand that your funding is drastically cut, but now after ten year of never invoking a DIA, you are expecting up front payment by a small minority of people involved.

3) The lack of disclosure of DIA implications.

Until we were informed by the City, we didn't know what a DIA was. Neither the realtor nor the title company gave any explanation. We realize on our part it was failure to "read the fine print", but to turn that into a \$12,000 obligation is, if not unethical, at least unfair.

We have spoken with Loree Pryce about our concerns and she agreed that this is a highly unusual way to do business. We also plan to attend the City Council meeting on June 25 to voice our objections.

Sincerely,

Jerome H. Moffitt
Diane L. Moffitt

Jerome and Diane Moffitt

622 Hassett St.

541-469-5247



June 13, 2012

Brian & Tiffanie Hodge
600 Hassett Street
Brookings, Oregon 97415

City of Brookings
Public Works Department
898 Elk Drive
Brookings, Oregon 97415

Re: 600 Hassett, Tax lot #04006, DIA #164

This letter is in response to the Hassett Street reconstruction project cost allocation notice we received on May 15, 2012. My wife and I found the content both surprising and distributing.

On May 28, 2001 we went into escrow and deposited \$2,000.00 non-refundable funds with the seller of 600 Hassett Street. At that time the Brookings planning commission did not grant Deferred Improvement Agreements. The planning commission set the policy to not grant DIAs in January of 2001. The commission reversed this decision in August of 2001, two months after we entered escrow. By August of 2001 we had not only deposited the \$2,000.00, we had invested in house plans and hours of preparation. Also, work on the lot had already started.

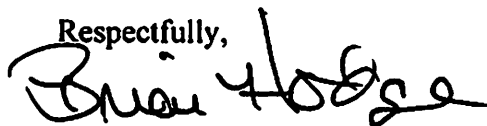
John Zia, our contractor, presented the DIA as something that would never happen because Hassett was too narrow in front of the property. It was presented as a minor inconvenience and not to worry about it.

The drainage system for the 600 Hassett lot was completed and approved by the city in 2001. Now the city wants us to pay again because they want to put in a 4" bigger pipe. Why should we pay again for a system we paid for in 2001 which was approved by the city?

The next issue we have is the most perplexing. We are being charged for the paving of the road in front of the property. There is an existing paved road. Why should we pay for the replacement of an existing road? Doesn't our tax dollars go to maintaining the road?

In closing, we want to state our frustration and confusion with this reconstruction project. Why are seven residents responsible for a section of road where approximately twenty residences are located? It just doesn't seem right.

Respectfully,


Brian & Tiffanie Hodge

May 25, 2012

Loree Pryce
Public Works Director
City of Brookings, Oregon

RE: Your letter dated May 15, 2012, pertaining to tax lots 3403 and 3404

I am notifying you and the City of Brookings that I am contesting the DIA that requires I pay for street improvements

We bought these lots from Dave Batty and the sale was final on June 7, 1988. (See Exhibit A) At that time Curry County Title Inc. did a title search which included the City of Brookings. At that time, there were no assessments or liens against this property. (See Exhibit B)

On June 13, 1988, 6 days after we bought the property, Dave Batty signed a DIA with the City of Brookings, which included our property, that he had no legal right to do so. It was notarized and recorded with the county on June 24, 1988. (See Exhibit C)

As for the existing culverts and drainage to the two lots, I had them installed. When we moved here there was no direct access to Hassett Street. I talked to Marshall Ferg, who was the current building inspector and got a permit to build a pole building on lot #3404. At this time, I talked to Marshall Ferg and he told me to hook up to the existing culvert on lot # 3400, which was a 12 inch galvanized pipe. I did so and then landscaped both lots 3403 and 3404, which not only looks good but works good

Therefore, I feel I did my part and responsibility. If the city wished to change my drain and pave the street, that is their choice and responsibility.

Thank you,



Charles K Henley
626 Hassett Street
Brookings, Oregon 97415
541-469-9125

To: Gary Milliman, City Manager
From: Glenn Julyan
Date: 6/1/2012
Re: Cost Allocation Reduction Request for 530 Hassett, Tax Lot #00803, DIA #44

Dear Mr. Milliman,

I would like to thank you for taking the time to meet with me on Friday, May 25, 2012 to discuss the Cost Allocation Notice I received for the Hassett Street Reconstruction Project. As we discussed, there is a Deferred Improvement Agreement (DIA) recorded on my property located at 530 Hassett Street (Tax Lot #00803, DIA #44) and the Brookings City Council has made the decision to call in all DIAs that have frontage property along the proposed project. According to the Cost Allocation notice that I received, my portion of the repairs have been estimated at \$8,360.39 which can be further broken down to \$1,080.39 for drainage and \$7,280 for street.

I would like to formally request that the City Council give consideration to reducing the cost allocation for Tax Lot #00803/DIA #44 on the following premises:

1) Inadequate Disclosure

The DIA recorded on Tax Lot #00803 was established in 1990, more than two decades ago. While I don't know how many owners there have been since the establishment of this agreement and cannot comment on whether or not the DIA was effectively disclosed during any of the subsequent title transfer transactions, it definitely was not properly disclosed to me during my escrow process. I was not made aware of what a DIA is and more importantly, the full verbiage of DIA #44 was not provided in my closing documents. The first time I read DIA #44 was when Loree Pryce provided it to me on Thursday, May 24, 2012.

As a result of inadequate disclosure of this agreement, the subject property was priced without any consideration to the significantly adverse affect this agreement has on the value of the property. When I purchased 530 Hassett, this DIA was effectively a "virtual lien" on the property for an undetermined amount of money only to be revealed by the City of Brookings at some unknown date in the future. Given the significant adverse impact DIAs have on the value of any given property, I would encourage the City of Brookings to do more to ensure potential buyers are clearly made aware of when a DIA is recorded on a given property. It should be mandatory that buyers read and sign a copy of the original DIA to ensure that the agreement was properly disclosed in full. Unfortunately, in my case, there was no such practice and to my detriment, the price I paid did not reflect the "virtual lien" on the property. Simply put, if I had read DIA #44 during escrow, I could have roughly estimated the cost of the improvements and negotiated a price at market value less the estimated cost of improvements. More likely, I would have opted to not purchase the property. I believe this concept of devaluation holds true for any property in Brookings whereby a DIA is recorded.

Regardless of the outcome of my request, I sincerely hope that the City of Brookings recognizes the need to do something to ensure the disclosure practice is modified to reflect the magnitude of these agreements. I am certain we can agree that in many cases, DIAs can amount to "life changing" sums of money and, prior to the close of escrow, potential buyers absolutely deserve to have complete disclosure of the entire verbiage of a DIA that is recorded on the subject property.

2) DIAs Are Unjust/Unfair

Owners of lots that happened to have been subdivided after a certain year (i.e. the year the City of Brookings started issuing DIAs) should not be held any more accountable for improvements than owners of any other lots. Holding one owner more accountable than another, as a simple matter of circumstance, is irrational. If the City does not collect enough funds through regular taxation methods to fund such improvements, then all property owners should be held accountable to help pay for such improvements. To hold a small number of property owners to a higher level of financial accountability while simultaneously revoking their ability to vote on such proposals is both unreasonable and unfair.

3) City Agrees to Accept Maintenance of Improvements

The nature of DIA #44 appears to imply that the owner agrees to construct a particular improvement(s) that did not exist at the time the agreement was established. In this particular case, DIA #44 calls out for the construction of curb, gutter, sidewalk, and pavement to centerline. However, the pavement to centerline on Hassett is preexisting and as such, should fall under the category of maintenance. As per section IV of the agreement, the "City agrees to accept (the costs) for maintenance the improvements specified in section II" (except sidewalks). The costs for street maintenance for DIA #44 is estimated at \$7280 and, in accordance with the agreement, I would like to request that this amount be considered maintenance and not be included in the DIA cost assessment for Tax Lot # 00803.

4) Lack of Funds

Simply put, I do not have \$8,360.39 and believe it is highly unlikely that I can come up with this sum of money by October 2012. I would really like to avoid having a lien placed on my property and, while I do not generally agree with the concept of DIAs, I'm 100% committed to working with the City to negotiate a reasonable sum to satisfy my obligations in accordance with DIA #44.

Assuming we are able to agree on a reduced amount, I would also like to request that the City Council give consideration to modifying DIA #44 to remove any obligations for future improvements along both Hassett and Weaver.

Gary, I look forward to working with you to resolve this matter in a way that is agreeable for all parties involved. Should you feel the need to contact me at anytime, please do not hesitate to do so.

Thank you for your consideration and attention to this matter.

Respectfully yours,



Glenn Julyan
650-387-1208
glennjulyan@directorofis.com



City of Brookings

PUBLIC WORKS DEPARTMENT

898 Elk Drive, Brookings, OR 97415

(541) 469-1151, Fax (541) 469-3650, TTY (800) 735-1232

lpryce@brookings.or.us

May 15, 2012

James Davis
523 Hassett
Brookings, OR 97415

**Hassett Street Reconstruction
Project Cost Allocation Notice**

Re: 523 Hassett, Tax Lot #00400, DIA #151

Dear Mr. Davis:

The City of Brookings is developing design plans for construction of drainage and paving improvements to Hassett Street from Pioneer Road to 7th Street. These improvements will include reconstruction of the existing paved surface with new paving, undergrounding of existing road shoulder drainage, sidewalk installation on the south side of Hassett Street, curb and gutter. The enclosed site plan demonstrates the extent of improvements.

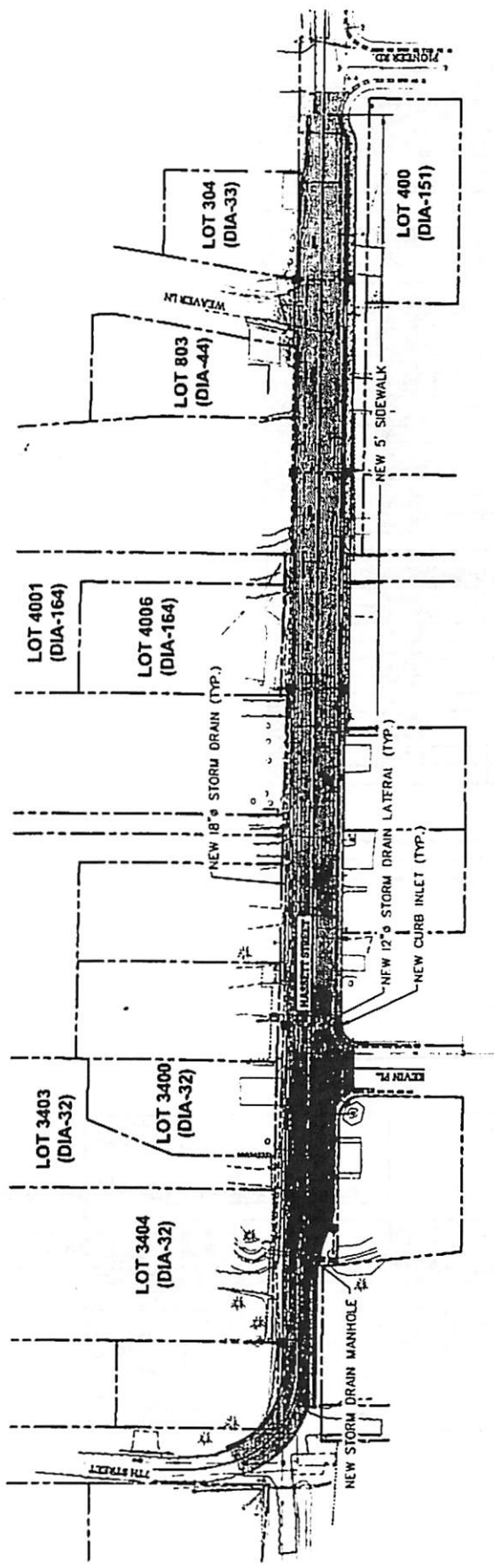
Our records indicate that a Deferred Improvement Agreement (DIA) was recorded when your property fronting Hassett Street was subdivided or otherwise improved. This DIA is a recorded agreement that provides for the participation in improvements to Hassett Street at the time the City undertakes an improvement project. The City of Brookings Municipal Code (BMC) Section 17.170.070 B defines the administrative process for the City to implement the DIA agreement. This letter serves as written notice of the implementation of the DIA.

For this property address, 523 Hassett, Tax Lot #00400, the contributing portion of costs is \$35,593.37 per the attached engineer's estimate of construction costs at a pro rata basis. This amount is based on the properties frontage length portion multiplied by the total costs of the improvements. You are responsible for the actual costs of construction and this is an estimate only. Actual costs will be based on a competitive bidding process and completion of the construction contract. Construction is anticipated for August 2012 and completed in October 2012. Total costs must be paid upon completion in the form of a cashier's check, or arrangements can be made in advance for City financing. Any portion not collected within 60 days of formal notice of completion will be lien against the properties.

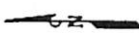
Property owners have the option of retaining their own contractor to coordinate the completion of work along the frontage of their property with the work being performed by the City's contractor. A City Council meeting has been scheduled for June 25, 2012 at which staff will be updating the City Council on any questions or concerns by the affected property owners. Please feel free to contact me at your soonest convenience to discuss this matter at 541-469-1151.

Respectfully,

Loree Pryce
Public Works Director



OVERALL PLAN VIEW
1
DIA1



City of Brookings
Hassett Street from 7th to Pioneer
DIA Cost Breakdown - Final/Memo

DIA Cost Estimate:				
No	Description	Quantity	Unit	Item Cost

Drainage System Improvements				
1	18" Storm Line	560	LF	\$60.00
2	12" Storm Line	160	LF	\$50.00
Total Cost				\$42,800

Street Improvements - Both sides of street (including curb & gutter)				
1	Construction Facilities And Temporary Controls	1	LS	\$33,200.00
2	Demolition and Site Preparation	1	LS	\$35,000.00
3	Foundation Stabilization	200	CY	\$50.00
4	Manhole Frame Adjustment - Type 2	4	Each	\$1,200.00
6	Curb Inlets	10	Each	\$1,600.00
7	AC Pavement	900	Ton	\$100.00
8	Aggregate Base	2,400	Ton	\$30.00
9	Curb and Gutter	1,600	LF	\$12.00
10	36" Storm Line	20	LF	\$200.00
11	Painted Centerline Stripe	300	LF	\$2.00
12	Thermoplastic Crosswalks	100	LF	\$12.00
16	Handrail - Type 1	60	LF	\$100.00
Total Cost				\$288,400

13.00% \$255,200

includes valley gutter

Sidewalk Improvements				
1	Construction Facilities And Temporary Controls	1	LS	\$4,000.00
2	Demolition and Site Preparation	1	LS	\$2,500.00
3	Foundation Stabilization	5	CY	\$50.00
4	Aggregate Base	80	Ton	\$25.00
5	Concrete Sidewalk	1,775	SF	\$6.00
6	Concrete Driveway Approach	360	SF	\$8.00
7	Concrete Access Ramp	150	SF	\$10.00
8	Water Meter - Relocate	3	EA	\$450.00
9	3/4" Service Line	50	LF	\$10.00
10	Fence - Remove & Replace	160	LF	\$20.00
Total Cost				\$28,830

16.00% \$24,830

Total Construction				\$360,030
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Total Engineering				\$72,006
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Total lineal footage along Hassett from 7th to just before Pioneer = 1030

Drainage System Improvements cost per lineal footage: North \$20.78
 South \$20.78

Street Improvements (Both sides) cost per lineal footage: \$140.00

Sidewalk Improvements cost per lineal footage (based on 460LF): \$62.67

DIA Assessment Roll							
DIA No.	Map Number / Tax Lot No.		Lineal Foot Frontage	Drainage	Street	Sidewalk	Final Assessment with Engineering Fees (20%)
DIA-32	40-13-31DD	Tax Lot # 3404	114.81	\$2,385.37	\$16,073.40		\$18,458.77
DIA-32	40-13-31DD	Tax Lot # 3403	25	\$519.42	\$3,500.00		\$4,019.42
DIA-32	40-13-31DD	Tax Lot # 3400	70	\$1,454.37	\$9,800.00		\$11,254.37
DIA-162	40-13-31DD	Tax Lot # 3970	16	\$344.65	\$2,400.00		\$2,744.65
DIA-164	40-13-31DD	Tax Lot # 4006	82.01	\$1,703.90	\$11,481.40		\$13,185.30
DIA-164	40-13-31DD	Tax Lot # 4001	22.11	\$459.37	\$3,095.40		\$3,554.77
+DIA-44	40-13-32CC	Tax Lot # 803	52	\$1,080.39	\$7,280.00		\$8,360.39
DIA-33	40-13-32CC	Tax Lot #304	81.65	\$1,696.42	\$11,431.00		\$13,127.42
DIA-151	41-13-05BB	Tax Lot # 400	153.68	\$3,192.96	\$21,515.20	\$10,885.21	\$35,593.37
Total							\$109,965.45
							\$131,958.54

Street Address

626 Hassett

626 Hassett

622 Hassett

600 Hassett

623 Hassett

City of Brookings 2012 Strategic Plan

GOAL 1: An Effective, Responsive, Ethical City Government That Is Fiscally Sustainable.

Objectives	Priority/Action Items		Resp Party	Status/Notes
<ul style="list-style-type: none"> Sufficient revenue to sustain City services at appropriate levels. Provide competitive employee compensation through a merit-based system. Balanced revenue system that recognizes demands on City services by residents, businesses and visitors. Stable, effective and accountable management. Maximize non-City revenue resources to pay for services provided to unincorporated area. Encourage new private investment. Expedite development plan implementation. Sustain positive workplace environment and employee morale. Assure internal consistency and efficiency. Utilize local contractors. Succession planning. 	1	Maintain General Fund reserve at 5 percent of operating budget.	BC	Included in 2012-13 budget
	2	Develop two-year budget projection.	ASD	Summary document acceptable?
	3	Review/update storm water fees.	ASD	Need master plan update; budged for
	4	Conduct energy audits at water and wastewater plants.	PWD	\$15,000 estimate for WWTP project; not budgeted
	5	Develop vehicle replacement program/schedule.	ASD	Inventory complete; need staff resources
	6	Modify City purchasing policies to provide local preference and reduce barriers for local contractors.	CA/ASD	City Attorney preparing ordinances and resolutions
	7	Develop Public Works Department reorganization plan.	CM	Change implemented. Remove?
	8	Significantly reduce vehicle fuel consumption.	PWD	Evaluate fuel use/alternate energy for vehicle replacement/Contact made with Chrysler on future of electric (hybrid PUs and police vehicles.
	9	Develop plan for recruiting and sustaining volunteers.	PTS	Reassigned to new employee 7/1/2012
	10	Complete public works standards and specifications/digital format.	PWD	Work in progress
	11	Complete infrastructure GIS project.	PWD	June 2013
	12	Implement Council Technology Plan	CR/ASD	New website under construction and on schedule to "Go-live" in late August, 2012.

GOAL 2: A Safe Community

Objectives	Priority/Action Items		Resp Party	Status/Notes
<ul style="list-style-type: none"> Adequately staff, equipped and housed police and fire departments Maintain streets in safe/serviceable condition. Provide clean drinking water and compliant waste water treatment. Improve personal/family preparedness. 	1	Build and equip an Emergency Operating Center.	CM/PWD	Bids rejected. BO to manage owner/builder construction.
	2	Exercise emergency plan.	PC	Hold for EOC completion
	4	Develop bicycle plan & pursue funding for improvements.	PL	Bicycle Plan Adopted - Harris/Dawson Project to begin 2013. More grants in progress
	5	Promote "Map your Neighborhood: preparedness program.	FD/PC	Developing program through VIPS & VFD
	6	Allocate additional funding for street reconstruction (increase beyond \$250,000.	BC	Included in 2012-13 budget.
	7	Increase employee compensation to discourage police officers from leaving for higher paying jobs.	CC	3-year union contract ratified. Remove?

KEY: ASD = Administrative Services Director BC = Budget Committee BD = Building Official CC = City Council CE = City Engineer CM = City Manager CR = City Recorder FC = Fire Chief PC = Police Chief PL = Planning Director PWD = Public Works Director CA = City Attorney PTS = Parks and Technical Services

City of Brookings 2012 Strategic Plan

GOAL 3: Influence Economic Growth				
Objectives	Priority/Action Items		Resp Party	Status/Notes
<ul style="list-style-type: none"> Complete approved capital projects in a timely and cost efficient manner. Provide infrastructure to support economic growth. Develop coastal access. Establish development policies and public improvements/standards that recognize economic trends. Secure needed resources. Establish policy that City is pro-growth. 	1	Reduce barriers that hinder development.	PL	Discussed at 10/3 Council Workshop. Remove?
	2	Develop UGB transition agreements with special districts.	PL	Delayed by HSD/County not pursuing.
	3	Develop business and resident attraction program.	CM	Exploring regional approach
	4	Develop schedule to review/update infrastructure master plans and development standards.	PWD	Every 5 years. Most plans are >5 years old. Propose Master Plan updates in FY 12/13
	6	Downtown Master Plan implementation schedule.	CM/ASD	Railroad Street next project
	7	Downtown property maintenance ordinance	BD	Proposed ordinance rejected by Council. Remove?
	8	Develop consolidated implementation plan for water, stormwater, wastewater and pavement management plans.	PWD	Include in master plan updates
	9	Complete dewatering processing facility.	CM	Construction complete. Remove?
	10	Secure alternate site for Public Works shop.	CM	Completed purchase of old County yard; pursue airport property/ plan long-term
	11	Develop comprehensive plan for addressing wastewater I&I issue	PWD	In progress. Some projects underway
	12	Wastewater plant slide stabilization strategy.	CE/PWD	Two phases; First phase completed - seeking grant funding for Phase II
GOAL 4: Effective Intergovernmental Relations				
Objectives	Priority/Action Items		Resp Party	Status/Notes
<ul style="list-style-type: none"> Influence regional, state, national policy on issues important to achieving City goals. Secure grant funding. Achieve City goals through strategic partnerships. Prepare for potential County fiscal failure. 	1	Evaluate possible assumption of County services on a cost recovery basis.	CM/ASD	Reviewed Planning/Building; not feasible. Remove?

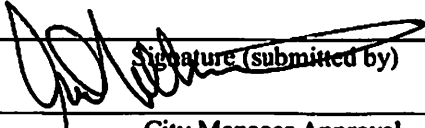
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CITY OF BROOKINGS

COUNCIL WORKSHOP REPORT

Meeting Date: July 2, 2012

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Revisions to BMC Title 2

Background/Discussion:

Title 2 of the Brookings Municipal Code establishes the basic rules for the general administration of the City. It provides for the method of selecting City Council members, defines the roles and responsibilities of the City Council, management and Commissions, enacts the City's authorization to participate in the Oregon Public Employees Retirement System, and establishes basic procedures for the purchase and sale of property and materials.

Staff has completed a comprehensive review of Title 2, some of which has not been updated since the City's inception. Several provisions are now outdated or in conflict with State regulations. Staff is proposing to consolidate some Chapters, and to create a new Chapter dealing with the sale of surplus City property.

Review of these changes may require more than one workshop. Staff plans to review each change with the City Council before preparing the necessary ordinance or ordinances to implement the changes.

Attachment(s):

- a. Draft changes to Title 2

Chapter 2.05 COUNCIL PROCEDURES

2.05.210 Maintenance of order and decorum of council meetings.

It shall be the duty of the presiding officer to maintain order during council meetings. Harsh or abusive language shall not be permitted. In the event of circumstances beyond the ability of the presiding officer to control, that officer is empowered to instruct the police department to preserve order. Any person making personal, impertinent or slanderous remarks, or becoming boisterous or otherwise disrupting or impeding the orderly conduct of the meeting shall be barred by the presiding officer from attending the remainder of the meeting. The police department shall carry out all legal orders and instructions of the presiding officer for the purpose of maintaining order and decorum in the council chambers. [Ord. 00-O-535 § 21.]

Chapter 2.25 MUNICIPAL COURT

Sections:

- [2.25.010](#) Creation of municipal court.
- [2.25.020](#) Creation of office of municipal judge.
- [2.25.030](#) Judicial officer of the city.
- [2.25.040](#) Territorial jurisdiction.
- [2.25.050](#) Crime and offense jurisdiction.
- [2.25.060](#) Authority of municipal court judge.
- [2.25.070](#) Creation of office of municipal judge pro tem.
- [2.25.080](#) Applicability of Oregon laws.
- [2.25.090](#) Municipal court rules.
- [2.25.100](#) Municipal court schedule.

2.25.010 Creation of municipal court.

There is hereby created a court for the city of Brookings to be known as "the municipal court for the city of Brookings." [Ord. 51-O-008 § 1.]

2.25.020 Creation of office of municipal judge.

There is hereby created the office of municipal judge. [Ord. 51-O-008 § 2.]

2.25.030 Judicial officer of the city.

The municipal judge shall be the judicial officer of the city of Brookings and shall preside over the municipal court of the city of Brookings. [Ord. 51-O-008 § 3.]

2.25.040 Territorial jurisdiction.

All of the incorporated area, now or hereafter, within the city of Brookings shall be within the territorial jurisdiction of the municipal court and the municipal judge. [Ord. 51-O-008 § 4.]

2.25.050 Crime and offense jurisdiction.

The municipal judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinance of the city of Brookings and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by an ordinance of the city of Brookings. The municipal judge also has jurisdiction over traffic crimes as defined by ORS 801.545 committed within the boundaries of the city. [Ord. 51-O-008 § 5.]

2.25.060 Authority of municipal court judge.

The municipal judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city of Brookings, to commit any such person to jail or admit him to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry in effect the judgments of the court, and to punish witnesses for contempt of court. [Ord. 51-O-008 § 6.]

2.25.070 Creation of office of municipal judge pro tem.

The office of municipal judge pro tem is hereby created. The municipal judge pro tem shall be appointed in the same manner as the municipal judge. The municipal judge pro tem shall serve as municipal judge pro tem when the municipal court judge is absent from the city, incapacitated, or otherwise unable to discharge the duties of municipal judge. When occupying the office of municipal judge, the municipal judge pro tem shall have all the powers and authority of the municipal judge. [Ord. 64-O-175; Ord. 51-O-008 § 7.]

2.25.080 Applicability of Oregon laws.

When not governed by ordinance or by Charter of the city of Brookings, all proceedings in the municipal court for the city of Brookings for the violation of a city ordinance shall be governed by the applicable general laws of the state of Oregon governing justices of the peace and justice courts. [Ord. 51-O-008 § 8.]

2.25.090 Municipal court rules.

The municipal judge shall have authority to form and adopt such reasonable rules for the conduct of the business of the municipal court for the city of Brookings; provided, however, that he/she shall not form or adopt any rule which is in contravention with the Constitution of the United States, the Constitution of the state of Oregon, the laws of the state of Oregon or any ordinance of the city of Brookings. The rules shall be made readily assessable to the public. [Ord. 51-O-008 § 10.]

2.25.100 Municipal court schedule.

The municipal court shall be in session only for such length of time as may be necessary to complete the judicial business of the city of Brookings. [Ord. 97-O-525 § 2; Ord. 51-O-008 § 11.]

Chapter 2.15 CITY MANAGER

Sections:

[2.15.010](#) Purpose.

[2.15.020](#) Creation of the office of city manager and procedures for appointment.

[2.15.030](#) Duties, powers, responsibilities and authority of the city manager.

[2.15.040](#) Legislative policy making prohibited.

[2.15.050](#) Salary and benefits.

[2.15.060](#) *Repealed.*

2.15.010 Purpose.

Pursuant to Chapter III, Section 11 of the Charter of the city of Brookings, Oregon, the city council hereby deems it advisable and in the best interest of the city to create the office of city manager and to outline said officer's powers, duties, responsibilities and the procedure for appointment and removal of said officer. [Ord. 89-O-457 § 1.]

2.15.020 Creation of the office of city manager and procedures for appointment.

A. The office of city manager is hereby created. The city manager shall be appointed by the common council of the city of Brookings, shall serve for an indefinite term and may be removed with or without cause by a majority vote of the members of the city council presently holding office at the time of such vote.

B. The city manager shall receive such compensation as the mayor and common council shall fix from time to time by motion noted in the minutes of the council.

~~C. At the time of appointment the person so appointed as city manager need not be a resident of the city of Brookings, Oregon, or of the state of Oregon but within six months of the date of appointment shall reside within said city and state for the balance of the person's tenure in office.~~

D. The city manager shall be required to carry a bond for the faithful performance of the duties of office in an amount to be determined by the city council. The expense of said bond shall be paid from the budget of the city manager's office. [Ord. 89-O-457 § 2.]

2.15.030 Duties, powers, responsibilities and authority of the city manager.

A. The city manager shall devote his/her entire time to the discharge of official duties, attend all meetings of the council unless excused therefrom by the council or the mayor, keep the council advised at all times of the affairs and needs of the city, and make reports annually, or more frequently if requested by the council, of all the affairs and departments of the city.

B. The city manager shall enforce all the ordinances of the city including the provisions of all franchises, leases, contracts, permits and privileges granted by, or running to the city.

C. The city manager shall be the chief administrative officer and head of the administrative branch of the city and have control and general supervision over all city employees and all appointive city officers except that the city manager shall not impinge on the city attorney's ethical obligations to the city council, shall have no control over the judicial activities of the municipal judge and shall have no power of appointment or removal of the municipal judge, city recorder or city attorney as such appointment and removal power is within the hands of the mayor and council pursuant to the City Charter. The city manager shall supervise the departments to the end of attaining the utmost efficiency in each of them and therefore shall have the power to employ, dismiss or transfer an employee from one department to another ~~providing that prior notification is given to the city council and that any department head dismissed by the city manager may appeal that dismissal to the city council.~~

D. The city manager shall act as purchasing agent of the city. All purchases shall be made in accordance with the city of Brookings contracting rules as adopted by city council resolution and administrative policies prescribed by the city manager.

~~E. The city manager shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such other reports as the city council may request.~~ To be covered under chapter under the Budget Committee]

F. The city manager shall supervise the operation of all public utilities owned and operated by the city and shall have general supervision over all city real or personal property.

G. The city manager shall act as business agent of the ~~council-city~~ for the sale of real estate and other matters relating to franchises and leases.

H. The city manager shall supervise the expenditures of all departments, divisions or services of the city and analyze and supervise the functions, duties and activities of the various departments, boards and services of the city, and all employees thereof, and make recommendations to the mayor and city council with reference to which in his/her judgment will result, if adopted, in greater efficiency of the overall operation of the city of Brookings government.

I. When authorized by the city council, the city manager shall develop and organize improvement projects and programs, and aid and assist the mayor and city council in carrying the same through to a successful conclusion.

J. The city manager shall make and keep an inventory of all personal and real property owned by the city and advise the mayor and council of the need for purchase of new machinery, equipment or supplies, which in his/her judgment the same can be obtained under the terms and conditions which are most advantageous to the city.

K. The city manager shall make, or cause to be made, studies and surveys of the duties, responsibilities and work of the personnel employed by the city; shall inform and update the mayor and council in regards to his/her decisions on abolition, consolidation, transfer, removal of positions or personnel, or any other

administrative decisions made by the city manager which in his/her judgment will increase administrative efficiency.

L. The city manager shall endeavor at all times to exercise the highest degree of tact, patience, and professional courtesy in his/her contacts with the public, personnel employed by the city and all elected and appointed officials, to the end that the highest possible standards of public service shall be maintained.

M. The city manager shall perform such other duties as may be required of him/her by the mayor and council, not inconsistent with the laws of the state of Oregon and the Charter and ordinances of the city of Brookings. [Ord. 08-O-601 § 2; Ord. 89-O-457 § 3.]

2.15.040 Legislative policy making prohibited.

The city manager shall not exercise any legislative policymaking or legislative functions, nor attempt to commit or to bind the mayor or council to any action, plan or program regarding legislative policy or legislative function, and such shall remain exclusively the province of the city council. [Ord. 89-O-457 § 4.]

2.15.050 Salary and benefits.

~~The salary and benefits of the city manager shall be set by the city council within the annual budget of the city of Brookings. [Ord. 89-O-457 § 5.]~~

2.15.060 Severance.

Repealed by Ord. 07-O-580. [Ord. 89-O-457 § 6.]

Chapter 2.25 MUNICIPAL COURT

Sections:

- [2.25.010](#) Creation of municipal court.
- [2.25.020](#) Creation of office of municipal judge.
- [2.25.030](#) Judicial officer of the city.
- [2.25.040](#) Territorial jurisdiction.
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2.25.100 Municipal court schedule.

The municipal court shall be in session only for such length of time as may be necessary to complete the judicial business of the city of Brookings. [Ord. 97-O-525 § 2; Ord. 51-O-008 § 11.]

Chapter 2.35 FIRE DEPARTMENT

Sections:

- [2.35.010](#) Creation of the fire department.
- [2.35.020](#) Definition.
- [2.35.030](#) Configuration of the fire department.
- [2.35.040](#) Fire chief – Appointment.
- [2.35.050](#) Powers and duties of fire chief.
- [2.35.060](#) Officers – Appointment.
- [2.35.070](#) Rules and regulations.
- [2.35.080](#) Composition of department.
- ~~[2.35.090](#) Drills.~~
- [2.35.100](#) Arson investigations.
- [2.35.110](#) Authority to enter buildings and premises.
- [2.35.120](#) Notice to abate.
- [2.35.130](#) Records and inventory.
- ~~[2.35.140](#) Annual reports.~~
- [2.35.150](#) Suspension and discharge.
- [2.35.160](#) Purchasing.
- ~~[2.35.170](#) Equipment housing.~~
- ~~[2.35.180](#) Alarms.~~
- [2.35.190](#) Use of fire apparatus.
- [2.35.200](#) Handling of fire apparatus.
- [2.35.210](#) Mutual aid.
- [2.35.220](#) Assignment of equipment.
- [2.35.230](#) Issuance of badges.
- [2.35.240](#) False alarms prohibited.
- [2.35.250](#) Penalties.
- [2.35.260](#) Special police powers.
- [2.35.270](#) Duties of police officers.
- [2.35.280](#) Social functions.
- [2.35.290](#) Social officers.
- ~~[2.35.300](#) Compensation.~~

2.35.010 Creation of the fire department.

There is hereby created a fire department to be hereinafter known as the Brookings fire department, the object of which shall be the prevention and suppression of fire and the protection of life and property within the limits of the city of Brookings, and within the limits of any area which the city of Brookings may contract to provide the services contemplated by this chapter. [Ord. 79-O-309 § 1.]

2.35.020 Definition.

The term "department" as hereinafter used in this chapter shall mean the Brookings fire department. [Ord. 79-O-309 § 2.]

2.35.030 Configuration of the fire department.

The department shall consist of a chief, ~~a minimum of two assistant volunteer officers,~~ and such other ~~volunteer~~ officers and members as the chief and city manager may deem necessary for the effective operation of the department. [Ord. 79-O-309 § 3.]

2.35.040 Fire chief – Appointment.

The chief shall be appointed by the city manager for an indefinite period of time ~~and his tenure of office shall be technically qualified as training and experience and shall have ability to command men and hold their respect and confidence.~~ [Ord. 79-O-309 § 4.]

2.35.050 Powers and duties of fire chief.

The chief shall be held accountable to the city manager and shall make written and verbal reports thereto at such times and in such manner as the city manager may require. All other department and company officers shall be accountable to the fire chief only. Other members of the department and any company shall be accountable to their superiors and the chief. [Ord. 79-O-309 § 5.]

2.35.060 Officers – Appointment.

The assistant officers and all other department and company officers shall be appointed by the chief ~~with the prior approval of the city manager.~~ Such officers shall be accountable only to the fire chief and shall be subject to removal by ~~him the fire chief with the approval of or~~ the city manager. [Ord. 79-O-309 § 6.]

2.35.070 Rules and regulations.

The chief shall formulate a set of rules and regulations to govern the department and shall be responsible to the city manager for the personnel, morals and general efficiency of the department. [Ord. 79-O-309 § 7.]

2.35.080 Composition of department.

The chief shall, with the advice and consent of the city manager, determine the number and kind of companies of which the department is to be composed and shall determine the response of such companies to alarms. [Ord. 79-O-309 § 8.]

~~2.35.090 Drills.~~

~~The chief shall, at least once each month, conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the city of Brookings and any such area which the city of Brookings ordinances, fire prevention, water supplies and all other matters generally considered essential to good firemanship and safety of life and property from fire. [Ord. 79-O-309 § 9.]~~

2.35.100 Arson investigations.

The chief is hereby required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires. [Ord. 79-O-309 § 10.]

2.35.110 Authority to enter buildings and premises.

The chief is hereby authorized to enter any and all buildings and premises during business hours for the purpose of making inspections and to serve written notice upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found. [Ord. 79-O-309 § 11.]

2.35.120 Notice to abate.

Any person so served with a notice to abate any fire hazard or hazards shall comply therewith and promptly notify the chief. [Ord. 79-O-309 § 12.]

2.35.130 Records and inventory.

The chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the department. He shall also maintain a current inventory of all city equipment along with current equipment sign-out records. [Ord. 79-O-309 § 13.]

~~**2.35.140 Annual reports.**~~

~~The chief shall make a complete annual report to the city manager within one month after the close of the fiscal year, such report to include the information specified in BMC 2.35.140, together with comparative data for previous years and recommendations for improving the effectiveness of the department. [Ord. 79-O-309 § 15.]~~

2.35.150 Suspension and discharge.

Any member of the department may be suspended or discharged from the department by the chief or the city manager at any time he may deem such action necessary for the good of the department. [Ord. 79-O-309 § 17.]

2.35.160 Purchasing.

Recommendations of apparatus and equipment needed shall be made by the chief, and after approval by the city council, shall be purchased in such manner as may be designated by the council. [Ord. 79-O-309 § 18.]

~~**2.35.170 Equipment housing.**~~

~~All equipment of the department shall be safely and conveniently housed in such a place as may be designated by the council. [Ord. 79-O-309 § 19.]~~

~~**2.35.180 Alarms.**~~

~~Suitable arrangements or equipment shall be provided for citizens to turn in an alarm for notifying all members of the department so that they may promptly respond. [Ord. 79-O-309 § 20.]~~

2.35.190 Use of fire apparatus.

No person shall use any fire apparatus or equipment belonging to the department unless ~~accompanied by or having the special permission of an officer or so~~ authorized member ~~by the chief of the department.~~

[Ord. 79-O-309 § 21.]

2.35.200 Handling of fire apparatus.

No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless ~~accompanied by or having the special permission of an officer or so~~ authorized ~~by the chief member of the department.~~ [Ord. 79-O-309 § 22.]

2.35.210 Mutual aid.

The council is hereby authorized to enter into agreement or contract with nearby ~~agencies incorporated communities or governing bodies of other organizations or the inhabitants of nearby areas~~ to provide the members of such other communities or organizations or inhabitants with fire protection or to establish a mutual aid system. [Ord. 79-O-309 § 23.]

2.35.220 Assignment of equipment.

The officer in charge of the department shall have power to assign equipment for response to calls for outside aid in accordance with BMC [2.35.210](#) and in other cases only when the absence of such equipment will not jeopardize protection in the city of Brookings. [Ord. 79-O-309 § 24.]

2.35.230 Issuance of badges.

Each member of the department shall be issued a badge ~~or identification card~~ designating his rank ~~or an identification card.~~ [Ord. 79-O-309 § 25.]

2.35.240 False alarms prohibited.

No person shall turn in or cause to be turned in a false alarm. [Ord. 79-O-309 § 26.]

2.35.250 Penalties.

Any person violating the provisions of this chapter shall upon conviction pay a fine ~~of not more than \$500.00~~ ~~as defined under BMC 1.05, General Penalty~~ or be imprisoned in the city jail for a term not to exceed six months or by both such fine and imprisonment. [Ord. 79-O-309 § 27.]

2.35.260 Special police powers.

All regularly appointed members of the department are hereby given the necessary ~~special~~ police powers for the enforcement of the provisions of this chapter and for the enforcement of traffic ordinances relating to fires and fire fighting equipment. [Ord. 79-O-309 § 28.]

2.35.270 Duties of police officers.

It is hereby made the special duty of the chief of police and/or other peace officers who may be on duty and available for fire duty to respond to all fire alarms and assist the department in the protection of life and property, in regulating traffic, maintaining order and in enforcing observance of all sections of this chapter. [Ord. 79-O-309 § 29.]

2.35.280 Social functions.

It is deemed to be in the best interest of the welfare of the department that periodically its members or such of them as are not on duty at that time hold social functions and to that end the department may elect a president, vice-president, secretary and treasurer to be known as the "social officers." Such officers may be elected in any manner and for any term the membership as a whole may decide upon; and their duties shall be to arrange for and manage any and all social functions sponsored by the department. [Ord. 79-O-309 § 30.]

2.35.290 Social officers.

The functions and duties of said social officers shall in no way interfere with those of the regular department officers who are charged with responsibility for all fire service activities of the department. The social officers shall have the duty of so arranging and managing any or all social functions sponsored by the department as to command the respect of the citizenry. [Ord. 79-O-309 § 31.]

~~2.35.300 Compensation.~~

~~The fire chief's compensation shall be established consistent with other department heads and legal budgetary practices. [Ord. 79-O-309 § 32.]~~

Chapter 2.40

FIRE MARSHAL

Sections:

[2.40.010](#) Establishment of office of fire marshal.

[2.40.020](#) Appointment and qualifications

[2.40.0230](#) Powers and duties of fire marshal and deputy fire marshal.

2.40.010 Establishment of office of fire marshal.

~~The chief of the fire department of the city of Brookings shall be ex-officio fire marshal. He shall receive no compensation therefor other than his salary as fire chief. There is established within the City of Brookings the office of fire mashall.~~ [Ord. 59-O-134 § 1.]

2.40.020 Appointment and qualifications.

~~The fire marshal shall be appointed by the city manager who may also appoint deputy fire marshals. The fire marshal and deputy fire marshall shall, within six months of appointment, obtain and maintain all certifications as required by OAR 837-039-0120 for the level of inspection conducted by the appointee.~~

2.40.0230 Powers and duties of fire marshal and deputy fire marshal.

~~The fire marshal shall have the power, with the consent of the city council, to appoint a deputy to serve without compensation and act in the place and stead of the fire marshal. The fire marshal and the deputy shall be subject to removal from office upon charges preferred by vote of the city council at any regular meeting. The fire marshal or his deputy shall enforce the provisions of this chapter and all other chapters of the BMC pertaining to the protection of the city of Brookings from fire, and all provisions of the State of Oregon fire code and standards referenced, therein.~~ [Ord. 59-O-134 § 2.]

Chapter 2.55 PLANNING COMMISSION

Sections:

[2.55.010](#) Creation of city planning commission.

[2.55.020](#) Definition.

[2.55.030](#) Qualifications of members.

[2.55.040](#) Terms of office.

[2.55.050](#) Removal/vacancies.

[2.55.060](#) Election of chairperson and vice-chairperson.

[2.55.070](#) Staffing, training, expenses and compensation.

[2.55.080](#) Quorum, rules, meetings.

[2.55.090](#) Conflict of interest and disclosure.

[2.55.100](#) General duties and responsibilities of the commission.

[2.55.110](#) Particular duties of the commission.

[2.55.120](#) Submittal of all maps, plats and replats of land within the city limits to be submitted to the commission.

[2.55.130](#) Renaming of streets or roads.

[2.55.140](#) Ordinances and petitions pertaining to land use to be submitted to planning commission.

[2.55.150](#) Receiving of gifts, bequests, or devises of property.

2.55.010 Creation of city planning commission.

There is hereby created a city planning commission for the city of Brookings which shall henceforth be known as the Brookings city planning commission. [Ord. 91-O-483 § 1.]

2.55.020 Definition.

The term "commission" as used in this chapter shall mean and be the Brookings city planning commission. [Ord. 91-O-483 § 2.]

2.55.030 Qualifications of members.

A. The commission shall consist of seven voting members to be appointed by the mayor with the approval of the city council. At least five of the voting members shall be electors of the city of Brookings; two may be electors who reside within the city of Brookings adopted urban growth boundary. ~~These members shall not be officials or employees of the city. In addition to the members appointed by the mayor, the city planning director shall serve as ex-officio nonvoting member of the commission.~~

B. No more than two of the voting members may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that engages principally in the buying, selling or developing of real estate for profit. No more than two of the members ~~appointed by the city council~~ shall be engaged in the same kind of business trade or profession.

C. Membership shall be restricted pursuant to Chapter [2.01](#) BMC. [Ord. 11-O-680 § 2; Ord. 91-O-483 § 3.]

2.55.040 Terms of office.

At the first meeting of the commission, which shall be not later than 30 days after all appointments to the commission have been made and accepted, the seven appointed members shall choose their term of office by lot, as follows:

- A. One for one year;
- B. Two for two years;
- C. Two for three years;
- D. Two for four years;

and they shall immediately thereafter notify the mayor and the city council in writing of such allotment. Their successors shall hold office for four years. Any vacancy shall be filled by the mayor with the approval of the council for the unexpired portion of the term. [Ord. 91-O-483 § 4.]

2.55.050 Removal/vacancies.

A member may be removed by the city council, after hearing, for misconduct or nonperformance of duty. A member who is absent from two consecutive meetings without the permission of the commission chairperson is rebuttably presumed to be in nonperformance of duty, and the city council shall declare the position vacant unless finding otherwise following the hearing. All vacancies on the commission shall be filled by appointment by the mayor with the approval of the council, for the unexpired term. [Ord. 91-O-483 § 5.]

2.55.060 Election of chairperson and vice-chairperson.

At its last meeting of each calendar year, the commission shall elect a chairperson and vice-chairperson to serve a one-year term. The chairperson and vice-chairperson shall be eligible for re-election and shall be elected from among the voting members of the commission. The newly elected officers will take their seat at the first meeting of the next calendar year. [Ord. 98-O-483.A § 2; Ord. 91-O-483 § 6.]

2.55.070 Staffing, training, expenses and compensation.

A. The city manager shall provide the commission with a secretary who shall keep an accurate record of planning commission proceedings.

B. The city shall provide the commission with such other staff and consultation service as is deemed necessary by the commission and city council.

C. The expenses of the commission and those incurred by staff and consultants to the commission shall be met by such funds as are budgeted by the city council for such purposes.

D. Members of the commission shall receive no compensation but shall be reimbursed for duly authorized expenses.

E. Training sessions for the continuing education of commission members shall be provided at least annually.

F. Prior to the first regularly scheduled meeting of the planning commission following the new members' appointment, said member shall be entitled to at least a one-hour orientation meeting with the city's planning director.

G. New members of the commission shall receive, upon appointment, at a minimum:

1. The comprehensive plan;

2. The land development code;

~~3. "Land Use Planning in Oregon" by Mitch Rohse;~~

~~3. 4.~~ Ordinance No. 91-O-483;

~~5. Ethics Guide for Public Officials;~~

~~4. 6.~~ Resolution No. 91-R-501;

~~7. Current zoning map;~~

~~8. Current city budget;~~

~~5. 9.~~ Urban growth boundary management agreement. [Ord. 91-O-483 § 7.]

~~6. Such other documents as may be useful in understanding the role of planning commission Members as determined by staff and the city attorney.~~

2.55.080 Quorum, rules, meetings.

A. Four voting members of the commission shall constitute a quorum.

B. The commission may make and alter rules and regulations for its government and procedure consistent with the laws of the state of Oregon and with the Charter and ordinances of the city of Brookings.

C. The commission shall meet at least once a month, unless there is no business to conduct, at such time and place as may be fixed. All meetings of the commission shall be open to the public.

D. Meetings other than at regularly scheduled times may be announced at a prior meeting and thereby be made a part of the meeting records. Special meetings may be called at any time by the chairperson or by

three members, by notice served upon each member of the commission at least 24 hours before the time specified for the proposed meeting. Notice of a special meeting shall be provided in accordance with State Public Meeting Law (Chapter 192 ORS). [Ord. 91-O-483 § 8.]

2.55.090 Conflict of interest and disclosure.

A member of the commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest:

- A. The member or his/her spouse, brother, sister, child, parent, father-in-law, mother-in-law;
- B. Any business in which the member is then serving or has served within the previous two years;
- C. Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

Any actual or potential interest shall be disclosed in writing to the City Council and at the meeting of the commission where the action is being taken, and such disclosure shall be entered into the minutes of the meeting. [Ord. 91-O-483 § 9.]

2.55.100 General duties and responsibilities of the commission.

A. It shall be the duty of the commission and they shall have the responsibility to prepare, adopt and maintain a comprehensive general plan for the future growth and development of the city of Brookings. The commission shall base its decisions relating to land use, public facilities, transportation, housing and related matters on the Brookings comprehensive general plan as now or hereafter constituted. The commission shall conduct an overall review of the Brookings comprehensive general plan that may be proposed from time to time by the public, the commission, or the city council. Said amendments shall be based upon further studies or changed community priorities or conditions. The commission shall formulate and recommend to the city council various programs, policies and ordinances intended to implement the Brookings comprehensive general plan.

B. The commission shall review annually any capital improvement program.

C. The commission may review and submit recommendations to the city council regarding the city boundary changes or any public program for the acquisition and development of public facilities and transportation.

D. The commission's duties and responsibilities are further defined in the city's land development code.

E. At the request of the city council, the planning commission shall perform such other duties relating to some aspect of community planning and development.

F. The commission shall submit a written annual report to the city council by the first day of January of each year, to be presented orally at the January council meeting.

G. The commission shall forward copies of the minutes of its proceedings to the city council on a monthly basis.

H. The commission shall perform any and all other acts and things necessary or proper to carry out the provisions of this chapter; and in general to study and to propose such measures as may be advisable for the promotion of the public interest, health, morals, safety, comfort, convenience, and welfare of the city of Brookings, and the urban growth area and the area of mutual interest.

I. The commission shall also have all the powers which are now, or may hereafter be given to it, under the general laws of the state of Oregon or the Charter or ordinances of the city of Brookings. [Ord. 91-O-483 § 10.]

2.55.110 Particular duties of the commission.

It shall be the particular duty of the commission and they shall have the power, except as otherwise provided by law, to recommend and make suggestions to the city council and to all other public authorities concerning:

A. The laying out, widening, extending, location of streets, parking, sidewalks, and the relief of traffic congestion;

B. Housing and sanitary conditions;

C. The establishment of zones and districts;

D. Limitations on the use, height, area, and bulk of buildings and structures;

E. Plans for the regulation of the future growth, development, and beautification in respect to its public and private buildings, works, streets, grounds, and vacant lots;

F. Plans consistent with the projected growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of all public utilities, harbor, shipping, and transportation;

G. Plans for the promotion, development, and regulation of the industrial and economic needs of the community in respect to private and public enterprises. [Ord. 91-O-483 § 11.]

2.55.120 Submittal of all maps, plats and replats of land within the city limits to be submitted to the commission.

All maps, plats and replats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated for public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the city limits of the city of Brookings shall be submitted to the commission for its approval and all plans for plats for vacating or laying out, widening, extending, and locating streets, or plans for public buildings may be submitted to the commission. [Ord. 91-O-483 § 12.]

2.55.130 Renaming of streets or roads.

A. It shall be the duty of the commission to recommend to the city council the renaming of any existing street, highway or road if, in the judgment of said commission, such renaming is in the public interest.

B. Within the urban growth area and area of mutual interest outside the city limits of the city of Brookings the commission shall have the authority to recommend to the county planning commission the renaming of streets, highways or roads. [Ord. 91-O-483 § 13.]

2.55.140 Ordinances and petitions pertaining to land use to be submitted to planning commission.

Copies of all proposed ordinances or petitions for the establishment or alteration of the boundaries of any zone or district contemplated or referred to by this chapter, and copies of all ordinances or petitions relating to the city's land development code and the city's comprehensive plan, shall be first submitted by staff to the commission for recommendation, and staff shall immediately so notify the city council, and said commission shall make the recommendation thereon in writing to the city council; provided, however, the commission shall first hold a public hearing on said ordinances or petitions. [Ord. 91-O-483 § 14.]

2.55.150 Receiving of gifts, bequests, or devises of property.

The commission may receive gifts, bequests, or devises of property to carry out any of the purposes of this chapter, which property shall be set over to the city of Brookings to be used by it in furtherance of the purposes of this chapter, pursuant to the recommendation of the commission. It is further provided that the commission shall have the power and authority to recommend and make suggestions to the city council and other public authorities concerning the acceptance from the United States of America or any of its agencies, such funds as may be made available to municipalities for any of the purposes contemplated by this chapter. [Ord. 91-O-483 § 15.]

Chapter 2.67 BUDGET COMMITTEE

Sections:

- 2.67.010 Purpose
- 2.67.020 Definitions
- 2.67.030 Qualifications and term of appointed members
- 2.67.040 Qualification and term of appointed members

2.67.010 Purpose

The purpose of the budget committee is to review the budget message and budget document as prepared by the budget officer.

2.67.020 Definitions

The term "committee" as used in this chapter shall mean the city of Brookings budget committee.

2.67.030 Organization of the budget committee

ORS 294.414 requires that each local government establish a budget committee. The committee is made up of the city council and an equal number of appointed, citizen members. The director of finance and human resources shall serve as the committee's budget officer.

2.67.040 Qualifications and terms of appointed members

Appointments to the committee are made by the mayor with consent of the city council after an application is filed with the city recorder. Appointed members:

- A. Must reside inside the city limits;
- B. May not be officers or employees of the city; and
- C. Must be qualified voters of the City.

2.67.050 Term of appointed members

Appointed members serve staggered three year terms, such that approximately one-third of the terms of appointed members end each year. Members may apply for reappointment.

2.67.060 No compensation

Appointed members shall not receive compensation for serving in this capacity as proscribed under ORS 297.414(3)

2.67.070 Election of presiding officer

At its first budget meeting of the calendar year, the committee shall elect a presiding officer for a one year term.

2.67.080 Power and duties of the budget committee

The committee shall be responsible for reviewing the budget document. The committee may request and receive any information it requires for the revision and preparation of the budget document and may compel the attendance of any such officer or employee at its meeting as provided under ORS 294.428. Once satisfied with the budget document, the committee will approve the document and forward it to the city council for public hearing and adoption.

2.67.090 Duties and responsibilities of the budget officer

The budget officer shall be responsible for preparing and submitting the annual budget estimates and other such estimates as the city council may request and for presenting the budget document and budget message to the committee. The budget officer shall prepare budget estimates, the budget message and budget document under the direction of the City Manager.

2.67.100 Meetings and notice

The committee shall hold one or more meetings to review and approve the budget document as provided under ORS 294.426. The budget committee may also meet at other times at its discretion. Budget committee meetings shall be open to the public and noticed in the manner used to notice other public city meetings.

2.67.110 Removal/vacancies of citizen members

Following a hearing, the city council may remove a citizen member for misconduct or nonperformance of duty. A member who is absent from two consecutive meetings without the permission of the presiding officer is rebuttably presumed to be in nonperformance of duty, and the city council shall declare the position vacant unless finding otherwise following the hearing. All committee vacancies shall be filled by appointment by the mayor with the approval of the council, for the unexpired term.

Chapter 2.70 EMPLOYEE CONTRIBUTIONS TO PERS

Sections:

[2.70.010](#) Oregon PERS employee contribution.

2.70.010 Oregon PERS employee contribution.

The required Oregon PERS employee contribution of six percent of salary is deemed to be "picked up" for purposes of Internal Revenue Code Section 414(h)(2) and is assumed and paid for purposes of ORS 238A.335(2)(b). The employee does not have the option of receiving the assumed amount directly. Employee compensation may not be reduced and the employer shall provide the additional amounts necessary to make the employee contributions. This policy is not retroactive in application. as the city will make the actual payment to PERS out of the employee's pay; the employee not having the option of receiving his or her full salary and then making the PERS contribution themselves directly. In addition, the employees shall have their reported salary on the W-2 form be reduced by the amount of the employee contributions. [Ord. 94-O-508 § 1.]

Chapter 2.85

SALE OF CITY OWNED REAL PROPERTY

Sections:

2.85.010 Purpose.

2.85.020 Decision to sell real property.

2.85.030 Procedure to sell real property.

2.85.040 Proposals for purchase of property.

2.85.050 Opening of proposals.

2.85.060 Negotiations.

2.85.070 Public hearing.

2.85.080 Rejection of all proposals.

2.85.090 Continued marketing of real property interest after rejection of all proposals.

2.85.100 Application of this chapter.

2.85.010 Purpose.

This chapter is created to provide a procedure by which the city sells real property owned by the city which has been determined to no longer have public need. This chapter may be known as "Procedures to Sell City Owned Real Property." It is intended that the provisions of this chapter shall supplement the requirements of Oregon law in the sale of city owned real property. In the event that any provision of this chapter shall conflict with state law, state law shall control.

2.85.020 Decision to sell real property.

In the event that the city council should decide that a parcel or parcels of real property owned by the city is no longer needed for a public use, the council may order that the property be sold pursuant to the procedures of this chapter. The decision of the council to order the property sold shall be made at a regular or special meeting of the city council, and shall be based upon evidence and recommendations gathered by city staff. Unless otherwise required by the council, no public hearing shall be required for the council to make a determination that the real property is not needed for public use or to decide to sell the real property, subject to the public hearing procedures required by Oregon law and this chapter.

2.85.030 Procedure to sell real property.

If the city council decides to sell real property pursuant to this chapter, the city administrator, or the city administrator's designee, shall prepare a request for bids to buy the subject real property. A notice shall be published of the proposed disposition of city real property interest. Such notice shall be published in one or more newspapers of general circulation in Linn County, and in any other publication which the city administrator deems advisable, considering any unique circumstance surrounding the subject real property. The notice shall be published not less than once a week, for three successive weeks. The published notification shall include the following:

- A. A general description of the city real property interest subject to disposition, including a legal description;

- B. The minimum asking price. The minimum asking price shall be determined after considering an appraisal of the real property or other information which the city administrator deems appropriate, including a consideration of the costs of sale of the property;
- C. The name and address of the person to contact to obtain any additional information concerning the city real property interest;
- D. A request for proposals, including the address to which the proposal must be delivered and the date and time the proposal is due, which shall not be less than thirty (30) days from the date of the first notice;
- E. A requirement that a security deposit in the amount and form required by this chapter be submitted with the proposal;
- F. A reservation of the right of the city to accept or reject any proposal; and
- G. Any other information the city administrator deems desirable to include in the notice.

In addition to the above notice requirements, the city administrator shall also cause notices to be sent, containing the same information as required above, to the owners of real property directly adjoining the city owned real property proposed to be sold. Such notices shall be sent by regular mail to the person, persons or entity listed in the records of Linn County, Oregon purporting to be the owner in fee title to the real property directly adjoining the city owned property to be sold. Failure of any person or entity with an ownership interest in said adjoining real property to receive the notice of the proposed sale of the subject city owned real property shall not invalidate or impede any subsequent sale of the city owned real property.

2.85.040 Proposals for purchase of property.

- A. All proposals submitted in response to the published notice described in Section 2.85.030 of this chapter above, shall be accompanied by a deposit, in the form of:
 - 1. A certified check; or
 - 2. Sufficient bond furnished by a surety company authorized to do business in this State, in favor of the city of Lebanon, in a sum not less than ten percent (10%) of the total amount of the value of the proposal.
- B. Deposits will be refunded to all unsuccessful proposers after:
 - 1. The closing of the sale to a successful proposer; or
 - 2. Rejection of all proposals.
- C. Each proposal shall clearly set forth the amount offered for the purchase of the city owned real property, and shall include the following additional matters:
 - 1. Any conditions upon the proposer's offer to acquire the city's real property interest; and
 - 2. Any other information the proposer believes is relevant to its proposal.
- D. If the city administrator finds any proposal to be ambiguous, the city administrator may request that the proposer submit further information in order to clarify the proposer's proposal. If the city administrator does not request any such clarification, the ambiguous proposal may be rejected.

2.85.050 Opening of proposals.

After the date and time for submitting proposals has passed, the city administrator shall open all proposals that have been timely delivered and that have the required deposit. All responsive proposals

shall be evaluated by the city administrator, or his designate, in order to determine the proposal most advantageous to the city. The city administrator may make recommendations to the city council concerning the transfer of the city's interest in the subject real property. The city council, as provided in this chapter, after public notice and hearing may determine if the proposal is most advantageous to the city. The determination of the most advantageous proposal by the city council shall be final and conclusive and shall not be subject to review by any court.

2.85.060 Negotiations.

The city administrator shall notify the apparent successful proposer and may negotiate to determine if the transfer can be consummated, subject to the final approval of the city council. If such negotiations are unsuccessful, the city administrator shall notify the next highest ranking acceptable proposer and may similarly attempt to negotiate the disposition of the city real property interest.

2.85.070 Public hearing.

The city council shall hold a public hearing on the proposed disposition of the city real property interest prior to the sale. Notice of the proposed sale shall be published in a newspaper of general circulation in the city.

- A. The notice shall be published at least once during the week prior to the public hearing required in this section. The notice shall comply with the provisions of ORS 221.725 and shall state the time and place of the public hearing, a description of the property or interest to be sold, the proposed uses for the property and the reasons why the city council considers it necessary or convenient to sell the property. Proof of publication of the notice may be made or provided by ORS 193.070.
- B. Not earlier than five days after publication of the notice, the public hearing concerning the sale shall be held at the time and place stated in the notice. Nothing herein prevents the city council from holding the hearing at any regular or special meeting of the city council as part of its regular agenda.
- C. The nature of the proposed sale and the general terms thereof, including an appraisal or other evidence of the market value of the property, shall be fully disclosed by the city council at the public hearing. Any resident of the city shall be given an opportunity to present written or oral testimony at the hearing.
- D. Nothing in this section shall prevent the city council from adopting an alternative procedure for the sale of city real property, after public notice and hearing, as provided by ORS 221.727.

2.85.080 Rejection of all proposals.

The city council, in its sole discretion, may reject any or all proposals.

2.85.090 Continued marketing of real property interest after rejection of all proposals.

If all proposals are rejected, the city may market and sell the real property interest in any manner the city council deems appropriate, subject to the public hearing provisions of Section 2.85.070, including by and through a real estate licensee, provided that:

- A. Any resulting agreement of sale must be approved by the city council as required by state law.
- B. If no agreement of sale is executed within eighteen (18) months of the publication of the first public notice of sale described in Section 2.85.030 of this chapter, no agreement of sale may be

accepted without again first publishing a public notice of sale and complying with the provisions of this chapter.

2.85.100 Application of this chapter.

This chapter shall apply to sales and leases of city owned real property, only, after the effective date of this chapter.