

# **AGENDA**

## **City of Brookings**

### **Common Council Meeting**

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

**Monday, July 13, 2009, 7:00 p.m.**

Prior to the regular meeting, Council will meet in **Executive Session at 6:00pm** in the City Manager's office under the authority of **ORS 192.660(2)(d)** to deliberate with the City Manager as the person designated by the City Council to carry on labor negotiations.

**I. Call to Order**

**II. Pledge of Allegiance**

**III. Roll Call**

**IV. Ceremonies/Appointments/Announcements**

**A.** Relay for Life Proclamation. *Pg. 5*

**B.** Kite Festival Proclamation. *Pg. 6*

**C.** Yard of the Month Awards:

1. Yard of the Month – William and Dolores Zimmerman, 1125 Boyer Court. *Pg. 7*
2. Most Improved – Mike and June Batty, 870 Third Street. *Pg. 8*
3. Commercial Property – Doug Nidiffer, C&K Market, Inc., 615 Fifth Street. *Pg. 9*

**V. Public Comments – 5 minutes per person.** Turn in **public comment form** before start of meeting or to City Manager's office during business hours. Obtain forms at City Hall or at [www.brookings.or.us](http://www.brookings.or.us).

**VI. Regular Agenda**

**A.** Fifth Street Improvements Contract. *Public Works/Pg. 11*

**B.** Cable Franchise Consulting Services. *Administrative Services/Pg. 15*

**C.** Request for Proposals for City Attorney Services. *City Manager/Pg. 25*

**VII. Consent Calendar**

**A.** Approval of Council Minutes for June 22, 2009. *Pg. 35*

**B.** Acceptance of Parks and Recreation Minutes for April 23 and May 28, 2009. *Pg. 41*

**VIII. Remarks from Mayor and Councilors**

**A.** Mayor

**B.** Councilors

**IX. Adjournment**

All public 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.

# July 2009

July 2009							August 2009						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
5	6	7	1	2	3	4	2	3	4	5	6	7	1
12	13	14	8	9	10	11	9	10	11	12	13	14	8
19	20	21	15	16	17	18	16	17	18	19	20	21	15
26	27	28	22	23	24	25	23	24	25	26	27	28	22
			29	30	31		30	31					29

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		July 1	2	3	4
		10:00am CC- Site Plan Com Mtg 7:00pm FH-PoliceReserves	3:00pm CC SafetyComMtg	July 4th - Closed (closest workday)	July 4th
					5
					8:00am
6	7	8	9	10	11
9:00am CC- VIPS/Volunteers in Police Service 4:00pm CC - Council Workshop 7:00pm FH-FireTng/ChShrp	FH - Fire Training 7:00pm CC - Planning Commission	10:00am CC- Site Plan Com Mtg 10:00am FH - Brookings Rural Fire Dept	9:00am CC-Crm Stoppers 1:00pm CC - Court 3:00pm CC Urban Renewal Advisory Committee		11:00am CC - SC Sportsman Assoc.
					12
13	14	15	16	17	18
7:00pm FH-FireTng/ChShrp 7:00pm CC-Council Mtg	FH - Fire Training	10:00am CC- Site Plan Com Mtg	3:00pm CC - Stout Park Subcomm		
					19
20	21	22	23	24	25
9:00am CC-VIPS/Volunteers in Police Service 7:00pm FH-FireTng/ChShrp	FH - Fire Training	10:00am CC- Site Plan Com Mtg	7:00pm CC-Parks & Rec		
					26
27	28	29	30	31	
7:00pm FH-FireTng/ChShrp 7:00pm CC-Council Mtg	FH - Fire Training	10:00am CC- Site Plan Com Mtg			

# August 2009

August 2009							September 2009						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
2	3	4	5	6	7	8	6	7	8	9	10	11	12
9	10	11	12	13	14	15	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28	29	30			
30	31												

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					August 1
					2
3	4	5	6	7	8
9:00am CC- VIPS/Volunteers in Police Service 4:00pm CC - Council Workshop 7:00pm FH-FireTng/ChShrp	FH - Fire Training 1:00pm CC - LDC 7:00pm CC - Planning Commission	10:00am CC- Site Plan Com Mtg 7:00pm FH-PoliceReserves	3:00pm CC SafetyComMtg 3:00pm FH - Stout Park Subcommittee		9
10	11	12	13	14	15
7:00pm FH-FireTng/ChShrp 7:00pm CC-Council Mtg	FH - Fire Training 1:00pm CC - LDC	10:00am CC- Site Plan Com Mtg 10:00am FH - Brookings Rural Fire Dept	9:00am CC-Crm Stoppers 1:00pm CC - Court 3:00pm CC Urban Renewal Advisory Committee		16
17	18	19	20	21	22
Let Joyce know... 9:00am CC-VIPS/Volunteers in Police Service 7:00pm FH-FireTng/ChShrp	FH - Fire Training 1:00pm CC - LDC 7:00pm CC - Planning Comm (TENT)	10:00am CC- Site Plan Com Mtg	3:00pm CC - Stout Park Subcomm		23
24	25	26	27	28	29
7:00pm FH-FireTng/ChShrp 7:00pm CC-Council Mtg	FH - Fire Training 1:00pm CC - LDC	10:00am CC- Site Plan Com Mtg	7:00pm CC-Parks & Rec		30
31					
7:00pm FH-FireTng/ChShrp					



# 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, Larry Anderson, Mayor of the City of Brookings, do hereby declare July 17<sup>th</sup> through July 18<sup>th</sup>, 2009, as

## RELAY FOR LIFE WEEKEND

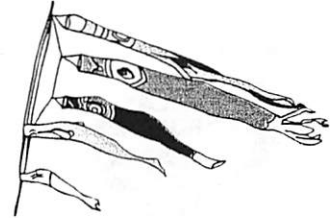
in Brookings and urge all citizens to participate in the activities provided by the "Relay for Life" being held at the Brookings-Harbor High School football field, beginning with opening ceremonies at 7:00pm, Friday, July 17<sup>th</sup> and continuing through 10:00am, Saturday, July 18<sup>th</sup>.

IN WITNESS WHEREOF, I, Mayor Larry Anderson, have hereunto set my hand and caused the official seal of the City of Brookings to be affixed this the 13<sup>th</sup> day of July, 2009.

A handwritten signature of Mayor Larry Anderson, written in black ink. The signature is stylized and appears to be "Larry Anderson". Below the signature is a horizontal line.

Mayor Larry Anderson

# PROCLAMATION



**WHEREAS**, 2009 marks the 17<sup>th</sup> year of the Southern Oregon Kite Festival, the largest invitational kite festival in the United States, traditionally held the third weekend in July at the Port of Brookings-Harbor, and

**WHEREAS**, the kite flyers are guests of the community, thanks to generous donations from businesses and individuals of Brookings-Harbor and the Wild River Coast area, and

**WHEREAS**, this free event brings more than 25 national and international award winning professional kite fliers and kite makers to the Port to perform their amazing routines choreographed to music, and

**WHEREAS**, thousands of members of the Brookings-Harbor community and the Wild Rivers Coast along with out-of-town guests of all ages will be attending the Southern Oregon Kite Festival to enjoy the fun and excitement of the kite pilots' awe-inspiring aerial skills, and

**WHEREAS**, children ages 3 and up are invited to participate in a kite building and kite flying techniques workshop to be held both festival days, and

**WHEREAS**, the popular kite auction banquet and Rokkaku kite building workshop will be held on Saturday, and

**WHEREAS**, in addition to the amazing kite demonstrations, the kite festival weekend activities will feature food and beverage vendors as well as arts and crafts vendors, and

**WHEREAS**, the Southern Oregon Kite Festival is a non-profit organization made up of volunteers dedicated to providing a spectacular, family-oriented event for the citizens of Brookings-Harbor and their guests;

**NOW THEREFORE**, I, Larry Anderson, Mayor of the City of Brookings, along with the members of the Brookings City Council, declare the week of July 13<sup>th</sup>, 2009, as

## SOUTHERN OREGON KITE FESTIVAL WEEK

And ask the Citizens of Brookings to join me in this observance.

IN WITNESS WHEREOF, I, Mayor Larry Anderson, have hereunto set my hand and caused the official seal of the City of Brookings to be affixed this the 13th day of July, 2009.

  
Mayor Larry Anderson



# YARD OF THE MONTH

**WILLIAM & DELORES ZIMMERMAN**

**1125 BOYER COURT**

Location—Brookings, Oregon

**JULY, 2009**

For Month and Year



July 10, 2009

Larry Anderson, Mayor

Date



City of Brookings  
898 Elk Drive  
Brookings, OR 97415  
(541) 469-2163



# MOST IMPROVED PROPERTY OF THE MONTH

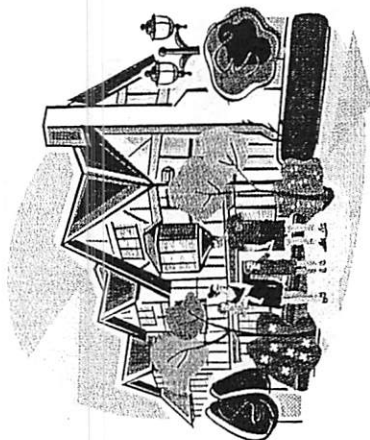
**Mike & June Batty**

**17249 S. PASSLEY**

Location, City of Brookings

**JULY, 2009**

For Month and Year



*July 10, 2009*

Date

Larry Anderson, Mayor



CITY OF BROOKINGS  
898 Elk Drive  
Brookings, OR 97415  
(541) 469-2163

# COMMERCIAL PROPERTY OF THE MONTH

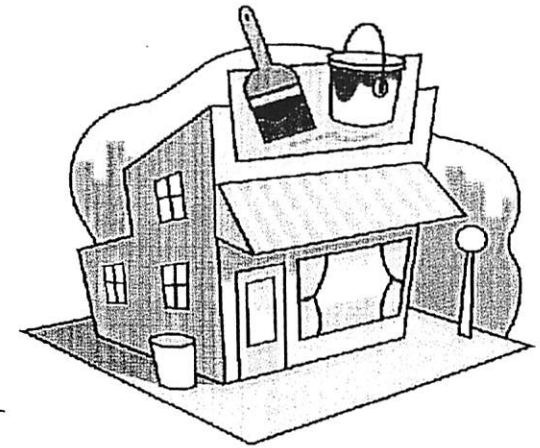
**C & K MARKET, INC.**

Location, City of Brookings

*Owner: Doug Nidiffer*

**JULY, 2009**

For Month and Year



Larry Anderson, Mayor

*July 10, 2009*

Date



CITY OF BROOKINGS  
898 Elk Drive  
Brookings, OR 97415  
(541) 469-2163

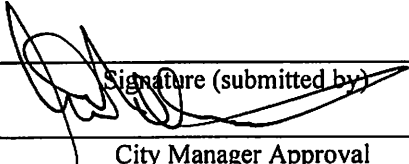


# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: July 13, 2009

Originating Dept: Public Works

  
\_\_\_\_\_  
Signature (submitted by)  
\_\_\_\_\_  
City Manager Approval

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Subject:

Award the contract for the Fifth Street Improvement Project to Tidewater Contractors, Inc., as the lowest responsible bidder.

Recommended Motion:

Award contract for the Fifth Street Improvement Project to Tidewater Contractors, Inc., as the lowest responsible bidder, in the amount of \$110,355.

Financial Impact:

\$110,355 expended out of state street tax monies.

Background/Discussion:

The City has been accumulating funds for the past four years and now has sufficient funds to complete this portion of the project. The project includes a street overlay from Easy Street to Barbra Lane, sidewalk on the northwest side of the street and realignment of the street to remove a curve. This project will allow for better pedestrian access to the area.

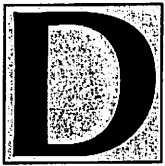
On June 30, 2009 bids were opened for the project. A total of five bids were received from Tidewater Contractors, Inc. \$110,355; Knife Rive Materials \$114,249; McLennan Contractors \$117,613; Robco Inc., \$118,480, and B & B Excavation \$128,075.50. The engineers estimate for the project was \$129,780. The engineer recommends acceptance of all bids and award of the bid to Tidewater Contractors Inc., the low bidder.

Policy Considerations:

None

Attachment(s):

July 1 letter from Dyer Partnership to Gary Milliman  
Bid tabulation sheet from Dyer Partnership



THE DYER PARTNERSHIP  
ENGINEERS & PLANNERS, INC.

RECEIVED

JUN - 2 2009

Per. 

July 1, 2009

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

RE: 5th Street Improvements  
Project No. 145.08

Dear Gary:

This letter is to recommend action by the City in response to bids received on June 30, 2009 for the above referenced project. We received five bids ranging from \$110,355.00 to \$128,075.50. The Engineer's Estimate was \$129,780.00. Please see attached spreadsheet of bids and engineer's estimate.

We recommend that the City take the following action:

1. Accept all bids.
2. Award a contract to Tidewater Contractors, Inc., the lowest responsive bidder in the amount of \$110,355.00.

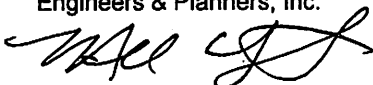
It is our opinion that Tidewater Contractors, Inc. has sufficient experience and qualifications to satisfactorily construct the project.

Assuming the Council concurs with our recommendation, we have enclosed three copies of the Notice of Award. A representative for the City needs to sign all three copies after which they should be returned to our office. (*Please do not date the Notice of Award.*) We can then forward them to Tidewater Contractors, Inc. for their signature along with the contracts, Performance Bonds, and Payment Bonds.

Pursuant to ORS 279C.835, the Oregon Bureau of Labor and Industries requires that Form WH-81 be filled out by the contracting agency and sent to them with a copy of the first-tier subcontractor form, if applicable (ORS 279C.370), within 30 days of issuing the Notice of Award. The form is available at <http://egov.oregon.gov/BOLI/WHDPWR/jan08/WH-81.doc>. The Owner is also responsible for payment of a Public Works Fee to the Bureau of Labor & Industries. This payment is accompanied by Form WH-39 which is available at <http://egov.oregon.gov/BOLI/WHDPWR/docs/wh-39.doc>.

Sincerely,

The Dyer Partnership  
Engineers & Planners, Inc.



Michael W. Erickson, P.E.

Project Engineer

1330 Tenth Avenue  
COOS BAY, OREGON 97420  
TELEPHONE: (541) 269-0732  
FAX: (541) 269-2044

**BID TABULATION**

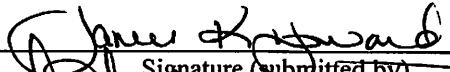
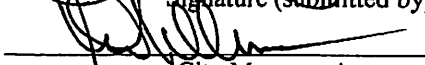
5th Street Improvements City of Brookings Brookings, Oregon														Bid Received: The Dyer Partnership Engineers & Planners, Inc. Project No. 145.08			
				ENGINEER'S ESTIMATE		BIDDER: Tidewater Contractors		BIDDER: Knife River Materials		BIDDER: McLennan Contractors		BIDDER: Robco, Inc.		BIDDER: B & B Excavation		AVERAGE BID PRICES	
Item	Description	Quantity	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
<b>BASIC BID</b>																	
1	Constr. Facilities & Temporary Controls	All	LS	\$14,000.00	\$14,000.00	\$15,000.00	\$15,000.00	\$34,175.00	\$34,175.00	\$9,000.00	\$9,000.00	\$25,000.00	\$25,000.00	\$14,000.00	\$14,000.00	\$19,435.00	\$19,435.00
2	Demolition and Site Preparation	All	LS	\$7,500.00	\$7,500.00	\$15,000.00	\$15,000.00	\$7,600.00	\$7,600.00	\$17,000.00	\$17,000.00	\$7,000.00	\$7,000.00	\$3,130.00	\$3,130.00	\$9,948.00	\$9,948.00
3	Mailbox Reloc. - Multiple Support Type	2	Each	\$2,000.00	\$4,000.00	\$400.00	\$800.00	\$480.00	\$960.00	\$300.00	\$600.00	\$350.00	\$700.00	\$412.50	\$825.00	\$388.50	\$777.00
4	Sign Relocation	4	Each	\$100.00	\$400.00	\$500.00	\$2,000.00	\$415.00	\$1,660.00	\$160.00	\$640.00	\$150.00	\$600.00	\$133.00	\$532.00	\$271.60	\$1,086.40
5	Reconstruction Area	400	SY	\$20.00	\$8,000.00	\$5.00	\$2,000.00	\$6.60	\$2,640.00	\$16.50	\$6,600.00	\$13.00	\$5,200.00	\$24.70	\$9,880.00	\$13.16	\$5,264.00
6	Foundation Stabilization	80	CY	\$50.00	\$4,000.00	\$50.00	\$4,000.00	\$78.00	\$6,240.00	\$29.00	\$2,320.00	\$52.00	\$4,160.00	\$39.00	\$3,120.00	\$49.60	\$3,968.00
7	Roadway Excavation	All	LS	\$8,000.00	\$8,000.00	\$7,500.00	\$7,500.00	\$4,250.00	\$4,250.00	\$15,480.00	\$15,480.00	\$10,000.00	\$10,000.00	\$7,880.00	\$7,880.00	\$9,022.00	\$9,022.00
8a	Aggregate Base 1 1/2"-0 (Base Coarse)	200	Ton	\$30.00	\$6,000.00	\$20.00	\$4,000.00	\$28.30	\$5,660.00	\$35.00	\$7,000.00	\$25.00	\$5,000.00	\$31.25	\$6,250.00	\$27.91	\$5,582.00
8b	Aggregate Base 3/4"-0 (Leveling Coarse)	200	Ton	\$30.00	\$6,000.00	\$22.00	\$4,400.00	\$43.50	\$8,700.00	\$36.00	\$7,200.00	\$26.50	\$5,300.00	\$43.30	\$8,660.00	\$34.26	\$6,852.00
9	Asphalt Concrete Pavement	200	Ton	\$110.00	\$22,000.00	\$95.00	\$19,000.00	\$91.00	\$18,200.00	\$97.00	\$19,400.00	\$115.00	\$23,000.00	\$148.00	\$29,600.00	\$108.80	\$21,760.00
10	Curb and Gutter R & R	270	LF	\$40.00	\$10,800.00	\$18.50	\$4,955.00	\$20.00	\$5,400.00	\$21.00	\$5,670.00	\$18.50	\$4,955.00	\$38.65	\$9,895.50	\$22.13	\$5,975.10
11	Concrete Sidewalk	1480	SF	\$10.00	\$14,800.00	\$7.50	\$11,100.00	\$3.50	\$5,180.00	\$5.00	\$7,400.00	\$4.50	\$6,660.00	\$7.60	\$11,248.00	\$5.62	\$8,317.60
12	Concrete Access Ramp	250	SF	\$12.00	\$3,000.00	\$10.00	\$2,500.00	\$4.00	\$1,000.00	\$5.00	\$1,250.00	\$5.75	\$1,437.50	\$8.60	\$2,150.00	\$6.67	\$1,667.50
13	Concrete Driveway Approach	470	SF	\$12.00	\$5,640.00	\$10.00	\$4,700.00	\$4.00	\$1,880.00	\$6.00	\$2,820.00	\$5.75	\$2,702.50	\$8.00	\$3,760.00	\$6.75	\$3,172.50
14	Roof Drains	40	LF	\$10.00	\$400.00	\$10.00	\$400.00	\$9.50	\$380.00	\$30.00	\$1,200.00	\$7.00	\$280.00	\$8.25	\$330.00	\$12.95	\$518.00
15	Truncated Domes	24	SF	\$80.00	\$1,920.00	\$50.00	\$1,200.00	\$21.00	\$504.00	\$37.00	\$888.00	\$40.00	\$960.00	\$31.00	\$744.00	\$35.80	\$859.20
16	Geotextile Fabric	500	SY	\$2.00	\$1,000.00	\$2.50	\$1,250.00	\$1.50	\$750.00	\$2.80	\$1,300.00	\$1.00	\$500.00	\$1.81	\$805.00	\$1.84	\$921.00
17	Thermoplastic Crosswalks / Stop Bars	20	LF	\$10.00	\$200.00	\$15.00	\$300.00	\$13.00	\$260.00	\$22.25	\$445.00	\$18.00	\$320.00	\$29.00	\$580.00	\$19.05	\$381.00
18	Painted Centerline Stripe	100	LF	\$1.00	\$100.00	\$10.00	\$1,000.00	\$4.00	\$400.00	\$4.60	\$460.00	\$2.50	\$250.00	\$6.34	\$634.00	\$5.49	\$548.80
19	Irrigation System	All	LS	\$4,000.00	\$4,000.00	\$2,750.00	\$2,750.00	\$2,350.00	\$2,350.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,300.00	\$2,300.00	\$2,480.00	\$2,480.00
20	Trench Excavation - 3/4" Service Line	30	LF	\$30.00	\$900.00	\$20.00	\$600.00	\$17.50	\$525.00	\$32.00	\$960.00	\$16.50	\$495.00	\$14.00	\$420.00	\$20.00	\$600.00
21	Retaining Wall - Masonry Block Type	40	SF	\$40.00	\$1,600.00	\$35.00	\$1,400.00	\$34.00	\$1,360.00	\$27.00	\$1,080.00	\$24.00	\$960.00	\$48.65	\$1,946.00	\$33.73	\$1,349.20
22	Landscaping	All	LS	\$6,000.00	\$6,000.00	\$5,000.00	\$5,000.00	\$4,175.00	\$4,175.00	\$8,400.00	\$8,400.00	\$11,000.00	\$11,000.00	\$9,786.00	\$9,786.00	\$7,272.20	\$7,272.20
<b>TOTAL BASIC BID</b>					<b>\$129,780.00</b>		<b>\$110,355.00</b>		<b>\$114,249.00</b>		<b>\$117,613.00</b>		<b>\$118,480.00</b>		<b>\$128,075.50</b>		<b>\$117,754.50</b>

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: July 13, 2009

Originating Dept: City Manager

  
Signature (submitted by)  
  
City Manager Approval

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Subject:

Joint agreement with Curry County and MuniCom to renegotiate Charter Franchise

Recommended Motion:

Authorize City Manager to enter into agreement with Curry County and MuniCom to renegotiate cable franchise fees.

Financial Impact:

Estimated costs for the City's share is \$6,425.

Background/Discussion:

Our current ten-year franchise agreement with Charter became effective August 22, 2000, and is scheduled to expire on August 21, 2010. To assist in negotiating that agreement, the City of Brookings and Curry County entered into a joint agreement with MuniCom, a consultant with expertise in cable franchises. The County has offered to do the same with this agreement. It is our expectation that we will be able to maximize efficiencies and minimize costs by entering into this agreement jointly with the county.

The City currently approximately \$80,000 per year from Charter Communications for the cable franchise (5% of Charter's gross revenues).

Attachment(s):

Proposed Agreement with MuniCom and Curry County

## **CONTRACT FOR PERSONAL SERVICES**

This contract is entered into this \_\_\_\_\_ day of July, 2009, by the City of Brookings, an Oregon Municipal Corporation (hereinafter "City"), Curry County, a Political Subdivision of the State of Oregon (hereinafter "County") and Stephen Jolin, dba as MuniCom (hereinafter "Consultant").

### **1. All Costs by Consultant**

Consultant shall, at his own risk and expense, perform the work described in this contract and, unless otherwise specified, furnish all labor, equipment and materials required for the proper performance of such work.

### **2. Intent of Agreement**

It is the intent of this agreement for Consultant to provide technical assistance and services to City and County in conducting the cable franchise renewal process with Charter Communications, Inc.

### **3. Joint Process**

Both City's and County's franchise with Falcon Cable Company II, C.P., dba Charter Communications is scheduled to expire on August 21, 2010. It is intended that City and County will jointly negotiate a new franchise cable contract with Charter Communications, Inc. (The terms of the City-Charter and County-Charter franchise agreements are expected to be very similar).

### **4. Nature of Work**

Consultant shall perform consulting, advising, and related services for City and County as described in Attachments "A" and "B", which are appended hereto, and by this reference incorporated herein. Consultant shall make an effort, within reasonable limits, to allocate the amount of time spent to accomplish specific tasks as outlined in Attachment "B" in accordance with the number of hours specified therein; however, hours may be reallocated among the tasks as the requirements of the process dictate.

### **5. Qualified Work**

Consultant has represented, and by entering into this contract now



represents, that he is fully qualified to perform the work under the contract in a competent and professional manner and, if required to be registered, licensed or bonded by the State of Oregon, is so registered, licensed, and bonded.

**6. Independent Contractor Status**

a) The parties agree that Consultant is a professional person and that the relationship created by this contract is that of public bodies - independent contractor. Consultant is neither an employee of the City, nor an employee of the County. Although City and County reserve the right to evaluate the completed performance, only Consultant shall have the control of the work and the manner in which it is performed. Consultant is not to be considered an agent of City or County.

b) Consultant shall not be entitled to the benefits normally associated with employment such as unemployment insurance, health insurance, and retirement. Consultant shall provide his own workers compensation coverage if required by law.

c) Consultant shall perform the services as an independent contractor in accordance with generally accepted standards applied by professionals of Consultant's qualifications and experience. Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all services performed by Consultant. Consultant shall, without additional compensation, correct or revise any error or deficiencies in the services that are caused by Consultant's negligence.

d) City and County will report the total amount of all payments to Consultant, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue regulations. Consultant shall be responsible for any Federal or State taxes applicable to amounts paid under this contract.

**7. Responsibilities of City and County**

City and County shall cooperate fully with Consultant to achieve the objectives of the contract. City and County shall identify and provide information to Consultant, arrange and host meetings, and provide such other services as may be necessary for efficient implementation of the contract by Consultant.

**8. Consideration**

a) In consideration of Consultant's satisfactory performance in carrying out the functions and activities described in Attachments "A" and "B", City and County jointly shall pay consultant at the rate of \$150.00 per hour, plus expenses. Unless the City and County both give Consultant written authorization for additional compensation, the total amount of

compensation under this contract from both City and County shall not exceed \$12,850, including expenses. City's share of the contract shall not exceed \$6,425; and County's share of the Contract shall not exceed \$6,425.

c) Because of the nature of this contract, Consultant shall bill City \$75.00, and Consultant shall bill County \$75.00 for each hour of work performed. Likewise, expenses shall be billed at 50% to the City, and 50% to the County, for a total of 100% of all expenses incurred under the contract. Consultant shall submit invoices for work actually accomplished and expenses incurred no more than once monthly to City and County. Payment shall be due within 30 days of receipt and approval of each invoice.

d) City and County shall not be liable for any expenditure under this contract without statutory appropriation pursuant to ORS 294.305 et.seq. (Local Budget Law)

e) City and County have appropriated funds for the services that will be provided during the fiscal year that ends on June 30, 2010. In the event no funds or insufficient funds to pay for the services are appropriated for subsequent fiscal years, City and/or County shall immediately notify Consultant, and this contract shall terminate on the last day of the fiscal year for which appropriations are made. Such notice is a condition precedent to invoking the limitation on payment stated in subsection c) above.

#### **9. Confidentiality**

Contractor agrees not to divulge any confidential information without the consent of City or County, as applicable, to any person, firm, corporation or other entity.

#### **10. Ownership of Documents**

a) All documents prepared by Consultant for the City pursuant to this contract shall be property of the City.

b) All documents prepared by Consultant for the County pursuant to this contract shall be property of the County.

#### **11. Indemnification**

Consultant agrees to defend, indemnify and save City and County, and their councilors, commissioners, officers, agents, and employees harmless from any and all losses, claims, actions, costs, expenses, judgments, subrogations, or other damages resulting from injury to any person (including injury resulting in death), or damage (including loss or destruction) to property, of whatsoever nature arising out of or incident to the performance of this contract by Consultant (including but not limited to,

Consultant's employees, agents, and others designated by Consultant to perform work or services attendant to this contract).

**12. Insurance**

Consultant shall, at his own expense, and all times during the contract, maintain in force:

- a) A general liability policy for obligations assumed under the contract.
- b) A comprehensive automobile liability insurance policy including owned and non-owned vehicles.
- c) The coverage under each liability insurance policy shall be with minimum coverage of \$1,000,000 per occurrence (combined single limit for bodily injury and property damage claims) or \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage. City and County shall be named as an additional insured under liability insurance policies provided by Consultant. Certificates of insurance acceptable to City and County shall be filed with City and County prior to the commencement of any services by Consultant. Each certificate shall state the coverage afforded under the policy cannot be cancelled and restrictive modifications cannot be made until at least 30 days prior written notices has been given to City and County.

**13. Compliance With Law**

This contract shall be governed by the laws of the State of Oregon. Consultant shall perform its obligations under this contract in accordance with all applicable laws, ordinances, rules and regulations now, or hereafter in effect. This includes compliance with the applicable provisions of ORS Chapter 279B, particularly 279B.220, 279B.230, and 279B.235, which are made part of this contract.

**14. Termination**

Any party may terminate this agreement anytime upon 30 days notice to the other parties. If any one party terminates the contract, it is terminated for the other two parties. If at the time of termination, City or County owes any fees to Consultant, such fees are due and payable within 30 days of termination. Termination shall not affect any of the rights of the parties prior to the effective date of termination.

**15. Assignment**

Except as provided below, the rights and duties of the parties hereunder are personal and shall not be assignable by any party without the express written consent of all parties. It is understood per Exhibit "A" that Consultant will be working with an engineering associate for the technical

review. That work will be billed out by Consultant at \$150.00 per hour.

**16. Notices**

a) Any notice required to be given under this contract shall be in writing and shall be given by personal delivery or U.S. mail. Any notice required to be given by law, shall be given in a manner specified by the applicable law.

b) Notices to City shall be directed to Gary Milliman, Brookings City Manager, 898 Elk Drive, Brookings, Oregon 97415.

c) Notices to County shall be directed to M. Gerard Herbage, Curry County Counsel, P.O. Box 746, Gold Beach, Oregon 97444.

d) Notices to Consultant shall be directed to Stephen Jolin, MuniCom, 20 Oswego Summit, Lake Oswego, Oregon 97035.

**17. No Waiver**

No provision of this contract shall be deemed waived unless such waiver is in writing and signed by the party alleged to have waived its rights. Any waiver of a breach by either party, whether express or implied, shall not constitute a waiver of any different breach.

**18. Severability**

If any provision of this contract is held by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other provisions of this contract, and this contract shall be construed as if the invalid provision had never been included in the contract.

**19. Modification**

No modification of this contract shall be valid unless in writing and signed by the parties.

**20. Attorney Fees**

In the event a suit or action is instituted to enforce any right guaranteed pursuant to this agreement each party shall be responsible for their own attorney fees.

**21. Entire Agreement**

This agreement constitutes the entire understanding of the parties with respect to the subject matter herein and supersedes all negotiations, prior discussions and preliminary agreements made prior to this date.

**CITY OF BROOKINGS**

By \_\_\_\_\_  
Gary Milliman

\_\_\_\_\_  
Date

**CURRY COUNTY  
CURRY COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Bill Waddle, Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
George Rhodes, Vice Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Georgia Yee Nowlin, Commissioner

\_\_\_\_\_  
Date

**CONSULTANT**

By \_\_\_\_\_  
Stephen Jolin

\_\_\_\_\_  
Date



## Exhibit "A"

### Curry County/Brookings: Scope of Work Task 1.

#### PRELIMINARIES.

Review existing franchise and related documents, meet or communicate with Client officials, finalize work plan.

#### Task 2. PAST FRANCHISE COMPLIANCE.

Review documents, interview Client and company representatives as necessary, prepare letter report on past franchise compliance.

#### Task 3. TECHNICAL REVIEW.

Examine physical system, review existing company performance test reports, prepare letter report.

#### Task 4. FINANCIAL REVIEW.

Review financial documents, including revenues, system growth, status of parent company. Prepare letter report.

#### Task 5. COMMUNITY NEEDS AND INTERESTS.

Conduct group meetings and individual interviews with community leaders, and a public hearing, to inform on cable renewal opportunities and to ascertain community needs: system design & performance, programming, customer service, public, educational and government access to system, institutional network needs, etc. Prepare report on community needs & interests

#### Task 6. DRAFT FRANCHISE.

Prepare draft franchise agreement, incorporating community needs and interests. Use existing franchise as model.

#### Task 7. NEGOTIATION ASSISTANCE.

Assist in negotiations, assuming 1 on-site meeting, and additional participation by phone, email, etc. with preparations, revisions to franchise draft, etc. (This task may involve more or less time than estimated due to factors outside the Client's or the consultant's control.)

#### Task 8. MISCELLANEOUS.

Miscellaneous communications with client via phone, email, etc.

**Exhibit "B"**

**BASIC FEE AND EXPENSE ESTIMATES  
CURRY COUNTY/BROOKINGS**

<b>Task</b>	<b>Fee</b>	<b>Exp</b>	<b>Total</b>
<b>Task 1 PRELIMINARIES.</b>	<b>\$450</b>		<b>\$450</b>
<b>Task 2 PAST FRANCHISE COMPLIANCE</b>	<b>\$600</b>		<b>\$600</b>
<b>Task 3 TECHNICAL REVIEW.</b>	<b>\$2,500</b>	<b>\$500</b>	<b>\$3,000</b>
<b>Task 4 FINANCIAL REVIEW.</b>	<b>\$450</b>		<b>\$450</b>
<b>Task 5 COMMUNITY NEEDS AND INTERESTS</b>	<b>\$2,500</b>	<b>\$500</b>	<b>\$3,000</b>
<b>Task 6 DRAFT FRANCHISE.</b>	<b>\$900</b>		<b>\$900</b>
<b>Task 7 NEGOTIATION ASSISTANCE.</b>	<b>\$3,500</b>	<b>\$500</b>	<b>\$4,000</b>
<b>Task 8 MISCELLANEOUS.</b>	<b>\$450</b>		<b>\$450</b>
<b>TOTAL</b>	<b>\$11,350</b>	<b>\$1,500</b>	<b>\$12,850</b>

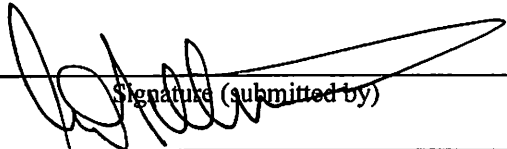
Fee Estimates are based on \$150/hr. for Jolin and engineering associate (for technical review). Expenses are based on estimated actual costs for food, lodging, auto travel at \$ .55/mile.

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: July 13, 2009

Originating Dept: City Manager

  
\_\_\_\_\_  
Signature (submitted by)  
\_\_\_\_\_  
City Manager Approval

---

Subject: Request for Proposals: City Attorney Services

Recommended Motion:

Direct the City Manager to issue the Request for Proposals for City Attorney services and advertise accordingly.

Financial Impact:

Minimal advertising cost.

Background/Discussion:

City Attorney John Trew announced his desire to resign as City Attorney by letter to the City Council dated April 10, 2009. Trew continues to provide City legal services pending the selection of a new City Attorney.

A Council subcommittee consisting of Councilors Gordon and Pieper met with the Administrative Services Director and the City Manager to develop a request for proposals for City Attorney Services. The subcommittee reviewed RFP's issued by various other cities in drafting the Brookings RFP.

The RFP will be advertised on League of Oregon Cities website, will be posted on the Oregon City Managers and Oregon City Attorneys listserves and will be provided to attorneys from whom inquiries have been received.

Proposals will be reviewed by the Council subcommittee after the August 10<sup>th</sup> submittal closing date.

Attachment(s):

City Attorney RFP

**CITY OF BROOKINGS  
REQUEST FOR PROPOSALS  
CITY ATTORNEY SERVICES  
Proposal Due Date: August 10, 2009**



The City of Brookings invites proposals for contracted City Attorney services. Proposals are must be received by the City Recorder not later than 2:00 p.m., Monday, August 10, 2009. Faxed proposals should be submitted no later than 10:00 a.m., Monday, August 10, 2009 to assure proper receipt. The City seeks services encompassing the traditional scope of work including legal counsel, opinions, consultation and coordination with special counsel. Attendance at a variety of meetings will be required, including staff meetings and Council meetings, as specified. For questions, contact the City Manager, Gary Milliman, by phone, 541-469-1101 or e-mail [gmilliman@brookings.or.us](mailto:gmilliman@brookings.or.us).

**Delivery:** Proposals may be mailed, faxed, or hand-delivered to:

City of Brookings  
City Recorder  
898 Elk Drive  
Brookings, OR 97415,

Fax 541-469-3650.

Emailed proposals will not be accepted. Please review the RFP document for complete information regarding delivery.

**Pre-Proposal Conference:** A Pre-Proposal Conference will be held at City of Brookings, Council Chambers, 898 Elk Drive, Friday, July 24, 2009, 11:00 a.m. Attendance by interested Proposers is not mandatory and will not be required in order to submit a proposal. Driving directions are available by calling 541-469-2163.

**Communications:** All communications regarding the RFP are to be directed to the City Manager's Office.

**Minimum Qualifications:**

1. Each attorney in the proposed team must possess a Juris Doctorate degree and have graduated from a law school accredited by the American Bar Association;
2. Each attorney in the proposed team must be a member in good standing of the Oregon State Bar Association;
3. The proposed designated City Attorney must have a minimum of five years experience. Municipal experience is preferred, including land use, municipal utilities, contracts, citizen initiatives, and public work construction. The City of Brookings reserves the right to reject any or all proposals, waive technicalities or irregularities, and to accept any proposal if such action is believed to be in the best interest of the City.

Publish: Curry Coastal Pilot, the League of Oregon Cities, Oregon State Bar Bulletin.

**OVERVIEW**

## **Introduction**

For information about the City of Brookings, visit <http://www.brookings.or.us>.

The City of Brookings has 51 full time employees, and operates under a Council-Manager form of government. The City Council consists of four members elected at large and a separately elected Mayor. The Mayor serves as the head of the Council. The City Manager directs all City operations. The City has utilized the services of the Law Offices of Trew & Cyphers, PC, for more than five years. The City anticipates the permanent replacement to be selected through this process and available no later than October 1, 2009. Mr. Trew typically worked an average of 12+ hours per month on City matters, which included a minimum of one Council meeting each month.

It is anticipated that these City Attorney services could demand 10 to 15 hours per month. Attendance at Council meetings would be on an as needed basis. The City anticipates that submitted proposals will identify a lead City Attorney that works virtually on an as requested basis on City business and will maintain central responsibility, and further anticipates one or multiple assisting attorney(s), depending upon the size, structure, specialties and preferences of the proposing firm. Proposers are welcome to submit alternative approaches, but this is the model that the City anticipates to be most successful to City practices. The City has five central departments: Administrative Services, Public Works, Planning and Building, Police and Fire. Each department works actively with the City Attorney for advice and counsel. Individual departments may frequently initiate the work, although the City Manager retains the core responsibility for legal functions, coordination/prioritization (as needed) of these services, and the legal budget.

## **Scope of Work**

1. Provides legal advice, counsel, services, training, consultation, and opinions to the City Manager, City Council, Commissions/Committees, and all levels of the City's government, on a wide variety of civil assignments, including but not limited to: land use planning, laws against discrimination, construction of public works, purchasing and procurement, leasing, purchase and sale of property, employment legal matters, public disclosure issues, open records law, and tort law. The City Attorney's advice includes methods to avoid civil litigation.
2. Furnishes legal representation at City Council business meetings as needed.
3. Appears before courts and administrative agencies to represent the City's interests.
4. Prepares/reviews ordinances and resolutions, contracts and other documents for legal correctness and acceptability.
5. Coordinates with other special counsel, as needed, to assure proper management of legal issues, and proper coordination and transition of legal issues among special counsel.
6. Assists City officials and employees in to maintain awareness of ethical standards and appearance of fairness standards, and to avoid potential conflicts of interest, prohibited transactions, and the appearance of prohibited transactions.
7. Assists City officials and employees to understand the legal roles and duties of their respective offices and interrelationships with others.
8. Provides the Mayor and City Council with guidance as to the City's Adopted Council Procedures and related procedural matters relating to Council meetings.
9. Prepares legal opinions at the request of the City or the Council.



10. Provides the City Manager, Mayor and City Council administrative advice and a legal perspective on various governmental issues.
11. Performs other legal services and tasks, as assigned by the City Manager.

### **Specifications**

1. The appointed City Attorney attends City Council business meetings on an as needed basis. These are scheduled for the second and fourth Monday night of each month, at 7:00 p.m.
2. The City Attorney attends staff-led meetings as requested/needed. Ideally, this would be the designated City Attorney, who is a key member of the City Management Team.
3. The City Attorney's services must be readily available by phone, cell phone, fax and e-mail.
4. Timeliness of response and accessibility to the City Attorney is an important aspect of the service. Accessibility and responsiveness for the proposed designated City Attorney is of greatest importance, although these elements will also be considered in relation to assistant attorney(s) as well.

### **Contract Term**

The City anticipates a two-year contract, with options for two-year renewals. Renewal of the contract will require Council reauthorization.

### **Schedule**

The City provides the following schedule. This is for information only and will be adjusted as needed. Proposers are encouraged to reserve flexibility for interviews from August 17, 2009 to August 21, 2009, as the City will not be able to allow much advance notice when scheduling initial interviews.

RFP Release Date:	July 17, 2009
RFP Conference:	July 24, 2009
RFP Submission:	August 10, 2009
Interviews:	August 17-21, 2009
Council Consideration:	September 10, 2009
Anticipated Start Date:	October 1, 2009.

### **HOW TO RESPOND**

Please provide seven sets of your proposal, responding to each inquiry in the order below. Please attach one set of business cards for your team along with the original.

1. Vendor Business History. Please complete and submit Attachment A.
2. Firm Experience
  - A. Provide a narrative description of the firm.
  - B. Describe the general experience of the firm.
  - C. Identify other municipal clients.
  - D. Identify experience with municipal issues including land use, zoning, growth management, and environmental law, complicated agreements including interlocal agreements, public works, personnel, and other municipal specialties.

3. Proposed Attorney, Team
  - A. Name and describe the attorney(s) and/or team proposed. Clearly identify the lead City Attorney and name assisting attorney(s).
  - B. Provide a resume or similar description for each team member, with considerable detail in the experience and qualifications of the lead City Attorney and any significant assisting attorney(s).
  - C. Specify the organization structure applicable to this contract, including who the lead City Attorney is, and the relationship of any assisting attorney(s) to that lead City Attorney.
  - D. If specialty attorney(s) or additional resources are available through your firm (in addition to the named team) to meet special or unusual needs, please identify such individuals and specialties as well.
4. Accessibility and Responsiveness
  - A. Identify the accessibility of the proposed designated City Attorney, and the response time that the individual offers to the City. Specifically identify the lead-time required for attending scheduled or ad-hoc meetings.
  - B. Identify the same for any assisting attorney(s).
5. Proposed Fee Structure.
  - A. Propose a compensation package, inclusive of all service costs. The City is open to a variety of approaches, including hourly rates or a flat monthly rate with add-ons.
  - B. The City will select the finalist by considering the proposed compensation as a "best and final offer," although the City reserves the right to negotiate terms as needed to improve elements of the proposal to best meet the needs of the City, including cost.
6. References
  - A. Provide three references for the lead City Attorney. The City prefers references that include municipal government experience.
  - B. Inclusion of the reference in your proposal is also agreement that the City may contact the named reference.
  - C. The City may contact any companies or individuals, whether offered as references or others, to obtain information that will assist the City in evaluating the Proposer. The City retains the right to use such information to make selection decisions. Submittal of a proposal is agreement that the City may contact and utilize such information.

## **EVALUATION AND SELECTION**

### **Evaluation Process**

The City reserves the right to award the contract to that proposal that best meets the needs and interest of the City. The following steps are anticipated.

- Step 1: Receipt and review of minimum qualifications
- Step 2: City Committee review of written proposals
- Step 3: Initial reference and information checks
- Step 4: City Council and City Manager interviews
- Step 5: City Council Confirmation process

**Contract Negotiations:** The City of Brookings reserves the right to negotiate all elements which comprise the apparent successful proposal to ensure that the best possible consideration is afforded to all concerned. City representatives and the selected finalist will review in detail, all aspects of the requirements and the proposal. During the review of the most favorable, apparent successful proposal, the Proposer may offer and the City may accept revisions to the proposal.

**ATTACHMENT A: SUBMITTAL FORM**  
**Business Statement**

***To be completed and submitted with your proposal response.***

1. Name of Business:
2. Business Address:
3. Phone: Business Fax:  
E-Mail (Proposer):
4. Business Classification (check all that apply): Individual: ☐ Partnership: ☐  
Corporation: ☐ Women or Minority Owned: ☐.
5. Federal Tax Number (or SSN):
6. Name of Owner:
7. Does firm maintain insurance in amounts specified below? Yes: ☐ No: ☐  
If no, describe differences.  
A. *General Liability insurance of at least \$1,000,000 per occurrence; \$1,000,000 aggregate, Combined Single Limit (CSL); Automobile liability of at least \$1,000,000 per accident CSL Professional Liability of at least \$1,000,000*
8. Are there claims that are pending against this insurance policy? Yes: ☐ No: ☐  
If yes, describe.
9. During the past five years, has the firm, business, or any attorney in the firm or business, been involved in any (1) bond forfeiture, (2) litigation personally involving the firm, business or any attorney in the firm or business (other than dissolution of marriage), or (3) claims filed with any insurance carrier concerning the firm, business, or any attorney in the firm or business, and/or (4) Bar Association complaints?  
Yes: ☐ No: ☐ If yes, attach an explanation.
10. Has company been in bankruptcy, reorganization or receivership in last five years?  
Yes: ☐ No: ☐
11. Has company been disqualified or terminated by any public agency? Yes: ☐ No: ☐
12. Has the proposed designated City Attorney practiced municipal law a minimum of 5 years? Yes: ☐ No: ☐
13. Is each proposed attorney accredited and in good standing with the State bar?  
Yes: ☐ No: ☐

14. Proposal Offers shall be good and valid until the City completes award or rejections of quotes. Failure to concur with this condition may result in rejection of the offer. Does the firm accept this condition? Yes: ☐ No: ☐ If no, state the desired exception:

*Having carefully examined all the documents of this solicitation, including the instructions, the undersigned proposes to perform all work in strict compliance with the above-named documents, as well as in compliance with all submitted proposal information.*

FIRM NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_



**MINUTES**  
**City of Brookings**  
**Common Council Meeting**  
898 Elk Drive, Brookings, Oregon 97415  
**Monday, June 22, 2009**

**Call to Order**

Mayor Anderson called the meeting to order at 7:00pm.

**Roll Call**

Council Present: Mayor Larry Anderson, Councilors Hedenskog, Gordon, Kitchen and Pieper; a quorum present.

Staff Present: City Manager Gary Milliman, Administrative Services Director Janell Howard, Planning Director Dianne Morris, Public Works Director John Cowan, Fire Chief Bill Sharp, Senior Planner Donna Colby-Hanks, and City Recorder Joyce Heffington.

Other Present: Curry Coastal Pilot Reporter Arwyn Rice and approximately 18 public.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to move Regular Agenda Item B to A.**

**Ceremonies/Appointments/Announcements**

Mayor Anderson proclaimed Drug Awareness Week and South Coast Hunger Awareness Week.

**Public Hearings/Ordinances**

Mayor Anderson opened the legislative public hearing on File CP-2-09, proposing adoption of the Economic Opportunity Analysis and amending Goal 9 of the City's Comprehensive Plan at 7:18pm. Hearing no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Director Morris reviewed the staff report and the hearing was closed at 7:24pm.

Mayor Anderson generally stated that he hoped the "study will not be put on a shelf and forgotten," as future development, and the jobs it creates, are important to our community.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt the [April 2009] Economic Opportunity Analysis and amend [Goal 9] of the City's Comprehensive Plan.**

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a first reading of Ordinance 09-O-639 by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-639 by title only.

Mayor Anderson read the title.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-639, an ordinance revising Goal 9 of the City's Comprehensive Plan, and adopting the April, 2009, Economic Opportunity Analysis.**

Mayor Anderson opened the legislative public hearing on File LDC-6-09, proposing amendments to Chapter 17.120, Nonconforming Uses, of the Brookings Municipal Code at 7:30pm. Hearing

no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Senior Planner Colby-Hanks gave the staff report and the hearing was closed at 7:34pm.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to amend Chapter 17.120, Nonconforming Uses, of the Brookings Municipal Code.**

Councilor Hedenskog moved, a second followed and Council voted unanimously do a first reading of Ordinance 09-O-637 by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-637 by title only.

Mayor Anderson read the title.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-637, amending Chapter 17.120, Nonconforming Uses, of the Brookings Municipal Code.**

Mayor Anderson opened the legislative public hearing on File LDC-7-09 at 7:38pm, proposing amendments to Chapter 17.116, Planned Unit Developments, of the Brookings Municipal Code. Hearing no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Director Morris provided the staff report and hearing was closed at 7:41pm.

**Councilor Pieper moved, a second followed and Council voted unanimously to approve revisions to Chapter 17.116, Planned Community, of the Brookings Municipal Code.**

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a first reading of Ordinance 09-O-636, by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-636, by title only.

Mayor Anderson read the title.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-636, amending Chapter 17.116, Planned Community, of the Brookings Municipal Code.**

Mayor Anderson opened the legislative public hearing on File LDC-8-09, amending Chapter 17.08, Definitions, of the Brookings Municipal Code at 7:43pm. Hearing no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Senior Planner Colby-Hanks gave the staff report and the hearing was closed at 7:47pm.

**Councilor Kitchen moved, a second followed and Council voted unanimously to approve revisions to Section 17.08.120 and Section 17.08.160, of Chapter 17.08, Definitions, of the Brookings Municipal Code.**

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a first reading of Ordinance 09-O-638 by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-638 by title only.

Mayor Anderson read the title.

**Councilor moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-638, amending Sections 17.120, L Terms, and Section 17.08.160, P Terms, of Chapter 17.08, Definitions, Title 17, Land Development Code of the Brookings Municipal Code.**

#### **Resolutions**

Director Howard generally stated that Resolution 09-R-917, adopting new CIS Membership Agreement, is a requirement for the City in order to receive insurance at a lower rate than that provided the private sector.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Resolution 09-R-917, approving the new CIS Membership Participation Agreement for the City of Brookings.**

#### **Regular Agenda**

Director Cowan provided the staff report regarding the request to install a tennis backboard at Bud Cross Park. Cowan generally stated that the Parks and Recreation Commission had recommended the installation and had forwarded the proposal to the City for approval. Cowan also stated that the City would draw up an agreement for maintenance to be provided by the tennis group.

**Rich Hayashi, 95244 Cape Ferrelo Road, proposer of the backboard installation, generally spoke in support of the project and stated that there is no tennis group, just him and other individuals who would like to see the backboard installed.**

**Councilor Kitchen moved, a second followed and Council voted unanimously to approve the installation of a tennis backboard at Bud Cross Park.**

Chief Sharp reviewed the change order request for fire apparatus from KME.

During the following discussion, Councilor Gordon expressed disappointment that KME was asking for more money and Mayor Anderson stated that he was troubled that this issue had not come before Council during the course of three Budget meetings, or any other time since it was received by staff in March.

Chief Sharp generally stated that it had taken some time to review the list and he had placed the matter on a "back burner" awaiting Milliman's return. Sharp also generally stated that the need for the change order was largely due to his lack of technical expertise, resulting in the failure to order items that were needed in order to effectively operate the equipment, and ordering items that were either not needed or not adequate to the City's needs.

Generally, Council agreed that they would like to see the additional \$10,889 come out of the \$46,000 approved for this purpose during the budget process.

**Councilor Piper moved, a second followed and Council voted to approve the additional cost of \$10,889 to the Pumper/Tender being constructed by KME, Inc, with Councilor Kitchen voting "Nay."**

Director Howard generally stated that, while acting as City Manager, she had reviewed the matter of the appeal, and supported Planning's interpretation of Brookings Municipal Code Section 8-15-087, as it pertains to the use of a recreational vehicle or travel trailer on vacant property zoned R-3 (Multi-Family Residential). As Planning interprets the Code, Howard stated, developed property is property which includes a residence, an interpretation which the appellants dispute.

Director Howard further stated that Attorney John Trew had reviewed the file and while he concurred with Planning's interpretation, he had stated that it was ultimately up to Council to interpret the Code.

Council Kitchen generally stated that it is, or it is not a development, and an empty lot is not a development.

Lloyd Bendickson, 49 Jack Nicklaus Road, Medford, appellant, generally stated that while the property in question does not have a structure, it is developed in that it has water, sewer and electric lines, as well as a paved drive. The appellant's, he stated, are asking for a firm definition of the term "development." Bendickson also generally stated that the two families have used the recreational vehicle on the site for the past ten years and would like to continue to use it as they have done, while abiding by the restrictions pertaining to recreational vehicles as provided in the Code.

City Manager Milliman generally advised Council against making a decision on this matter during the meeting, cautioning that if they decided to overturn the decision, they could be "opening a door" to recreational vehicles being parked on every vacant lot, no matter its size, throughout the City. City Manager Milliman offered an extension of the abatement as an alternative.

Councilor Pieper generally stated that while he wants to uphold the Code, it lacks a definition for "development," and his definition is that water, sewer, curb, gutter, etc, constitutes development.

Councilor Gordon generally stated that he agreed with the City Manager, and said that, in absence of a firm definition, he chooses to see the property as not developed.

Councilor Hedenskog generally agreed with Councilor Gordon but stated that he would like to make an exception in this instance, due to its particular circumstance as a large parcel in the City's suburbs. Hedenskog further stated that any definition of "development" should define specific exceptions based on factors such as oversized lots with unique settings.

Mayor Anderson generally stated that he did not want to make accommodations for anyone, and asked what other cities are doing.

After much discussion, Council generally agreed to extend the abatement to allow staff an opportunity to research the subject and look at what other cities are doing, how they are handling this issue, and how they define "development."

Councilor Kitchen moved to deny the appeal and not allow this type of occupancy. Failing a second, the motion died.

**Councilor Hedenskog moved, a second followed and Council voted to extend the abatement, request staff to review the wording and see if it's possible to make an exception, and continue the decision on the appeal to the July 27, 2009 City Council meeting, with a "Nay" vote from Councilor Kitchen.**

Director Howard provided a staff report on the settlement agreement offered by Verizon, generally stating that the agreement was the result of an audit that Council approved in 2002. The audit is finally complete and upon signing the agreement, the City would receive a \$10,598 settlement.

**Councilor Kitchen moved, a second followed and Council voted unanimously to approve the settlement agreement with Verizon and authorize the City Manager to sign the agreement.**

City Manager Milliman gave the staff report regarding the proposed adoption of the Economic Development Strategy (EDS), generally stating that the document would be used to guide staff's actions in terms of the City's economic development.

Tim Patterson, 621 Chetco Avenue, generally stated that he is supportive of the EDS and would like to see the private sector involved in its implementation.

**Councilor Gordon moved, a second followed and Council voted unanimously to adopt the City of Brookings Economic Development Strategy dated June, 2009.**

City Manager provided the staff report regarding construction and building materials burning, stating that the issue had been brought forward by Councilor Kitchen.

Chief Sharp generally stated that in the past he had been given the authority to make decisions regarding all burning within the City, with final approval coming from DEQ, and would be comfortable resuming that responsibility again. Sharp also generally stated that major development in 2004 had contributed heavily to the decision informing the current policy and now that development has slowed, those conditions no longer apply. Chief Sharp reviewed a letter from DEQ, describing DEQ's regulation and process as they pertain to open burns.

Councilor Hedenskog generally stated that he was against the idea of allowing large burns again, but if approved, would need to see some very specific restrictions.

Councilor Pieper and Kitchen agreed that the Fire Chief should be allowed to make decisions pertaining to open burns.

Mayor Anderson generally stated that ample opportunity for public input needed to be provided, as there was considerable input when the issue was previously considered. Staff was directed to draft language and inform the public that changes were being considered.

#### **Consent Calendar**

- Approval of Council Minutes for June 8, 2009.
- Approval of liquor license application for off-premise sales at Pine Cone Tavern.
- Approval to send annual letter to Department of Land Conservation and Development requesting \$6,000 in grant funding for the Planning Department.

**Councilor moved, a second followed and Council voted unanimously to approve the Consent Calendar as written with Councilor Kitchen voting, "Nay."**

#### **Adjournment**

**Councilor moved, a second followed and Council voted to adjourn by voice vote with Councilor Kitchen voting "Nay."**

Respectfully submitted:

ATTESTED:  
this \_\_\_\_\_ day of \_\_\_\_\_ 2009:

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Larry Anderson, Mayor

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Joyce Heffington, City Recorder

MINUTES  
BROOKINGS PARKS AND RECREATION COMMISSION  
April 23, 2009

**CALL TO ORDER**

Chair Vilelle called the meeting to order at 7:00 pm followed by the Pledge of Allegiance.

**ROLL CALL**

*Present:* Commissioners Ken Barkema, Tony Baron, Michelle Benoit, Patricia Brown, Frances Hartmann, Tony Parish and Chair Don Vilelle

*Also present:* Gary Milliman City Manager, John Cowan Public Works Director

**APPROVAL OF MINUTES**

- A. **Motion made by Commissioner Benoit to approve the minutes of March 26, 2009 as written; motion seconded and Commission voted, the motion carried unanimously.**

**PUBLIC APPEARANCES**

None

**REGULAR AGENDA**

- A. *Swimming Pool* – City Manager Gary Milliman reviewed pool group rental rates for families/special events. Pool costs City \$107 per hour per day to heat, clean and filter not including personnel hours. Suggested rental fee of \$100 per hour with additional fees for lifeguards. **Motion made by Commissioner Parrish to approve the increase in pool group rental fees as presented; for lack of a second the motion died.** Discussion continued regarding pool costs and loss of pool party revenue if rental fees make it cost prohibitive for groups to rent pool. Suggested more marketing of pool availability for private parties to increase pool group rentals. **Motion made by Commissioner Baron to increase pool group rates to \$60 per hour for 30 people or fewer, \$80 per hour for 31 to 60 people, and \$125 per hour for over 60 people; motion seconded and commission voted, the motion failed unanimously.** Discussion continued, suggested to raise 31 to 60 group amount to \$90. **Motion made by Commissioner Benoit to increase pool group rates to \$60 per hour for 30 people or fewer, \$90 per hour for 31 to 60 people, and \$125 per hour for over 60 people; motion seconded and Commission voted, the motion carried unanimously. Matter forwarded to City Council for approval.** Commissioner Parrish advised that Channel 9 is still in the process of making a parks video and pool could be included to encourage upcoming summer pool use and group rentals.
- B. *Budget: How It Works* – Janelle Howard, Administrative Services Director provided a handout detailing the budget process and explained budget requirements. Gary Milliman advised that a grant has been submitted for a restroom and paving of the parking lot at Chetco Point Park. Funding has also been requested from the general fund for a park model to be set up in Azalea Park for security and maintenance. Details are not complete as not in budget yet.
- C. *KidTown Enhancements* – Rob Carrillo, representative of the Ford Family Foundation Leadership Training Class provided mat product samples for the ADA KidTown enhancements they are planning. Discussed process of mat installation, safety and function ability. Mat pathway is going to be approximately 180 to 200 feet, and mats will be under the swings. The green mat color is preferred. Recommended to use wood instead of Trex for ramp. Fundraising by the Leadership Training Class for the project is in the process.

## **INFORMATION UPDATES/DISCUSSION ITEMS**

- A. *Easy Manor Park* – Commissioner Benoit advised the play equipment has arrived. Gary Milliman advised there is a new summer youth employment program that has volunteered to install the new park equipment in July. Public Works will begin demolition and prep work in June.
- B. *Lower Stout Park* – Commissioner Parrish advised that the Lower Stout Park Subcommittee is meeting twice a month now. Volunteers are trying to raise the first \$2000 to open an account with the Wild River Foundation to be able to be eligible for more funds. Trying to sell 1000 bricks for \$50 or \$100. Final park plans have not been completely approved.
- C. *Bankus Fountain/Azaleas* - Commissioner Benoit advised that the planting of the new azaleas went great, with many volunteer groups assisting. Plans continue to finish plantings by the fountain.

## **COMMISSIONER REPORTS/COMMENTS**

Commissioner Baron – work continues on field improvements at Bud Cross Park; adding two batting cages to the existing snack shack building, with funds provided by Rotary.

Commissioner Hartmann – wanted to bring attention that she has noticed at the Skate Park that kids are not wearing helmets and bicycles are again using it.

Commissioner Parrish – May 2<sup>nd</sup>, Stout Mountain Railway miniature Azalea festival is planned and again on May 24<sup>th</sup> during Azalea Festival weekend.

Staff -- Gary Milliman advised that the Capella is open 10am – 4pm most days now staffed with volunteers. The new summer employment youth group is looking for projects and have expressed interest in helping with the Azalea Park Garden Club, a screen clearance project and ivy removal at Azalea Park and the possibility of creating links on the city web page to all the parks in the area. No projects are definite yet, still in the process of determining if there are enough projects to have a crew here all summer. Commissioner Brown, president of the Azalea Park Garden Club said they would welcome the help and wondered if there was any possibility of ODOT giving the City the creek area at the botanical garden. In the past the City has made that request but ODOT has yet to respond. Possibility when Constitution Way is complete ODOT may abandon some property in that area.

John Cowan advised Oregon Department of Forestry planted redwood and red cedar trees in the creek area of Azalea Park, between the ballfields, and the volleyball and horseshoe pit areas.

## **ADJOURNMENT**

With no further business before the Commission, the meeting adjourned at 8:29 pm. Next meeting scheduled for May 28, 2009.

Respectfully submitted,



Don Vilella, Chair

(approved at May 28, 2009 meeting)

MINUTES  
BROOKINGS PARKS AND RECREATION COMMISSION  
May 28, 2009

**CALL TO ORDER**

Chair Vilelle called the meeting to order at 7:00 pm followed by the Pledge of Allegiance.

**ROLL CALL**

*Present:* Commissioners Ken Barkema, Tony Baron, Patricia Brown, Frances Hartmann, Tony Parish and Chair Don Vilelle *Absent:* Commissioner Michelle Benoit

Commissioner Benoit has submitted her resignation as she will be moving to Coos Bay to accept a new job position. The Commission will miss her.

*Also present:* John Cowan Public Works Director

**APPROVAL OF MINUTES**

A. Correct Commissioner Reports/Comments by Tony Parrish to read Stout Mountain Railway.

**Motion made by Commissioner Parrish to approve the minutes of April 23, 2009 as corrected; motion seconded and Commission voted, the motion carried unanimously.**

**PUBLIC APPEARANCES**

None

**REGULAR AGENDA**

A. *Tennis Backboard Proposal* – Richard Hayashi presented a proposal to install a 10'x16' tennis backboard at the Bud Cross Park tennis courts. Discussion, questions and answers pursued including backboard location, court surface material, backboard material, local tennis player population, susceptibility of backboard to graffiti/vandalism, and ability to safely attach backboard to current chain link fence. Maintenance issues and vandalism problems discussed and possible ways to deter them. Approximate backboard cost is \$3300, Mr. Hayashi believes he will be able to raise the funds needed without cost to the City and requested if the Commission would allow sponsor signage on the backboard. Advised that would have to be approved by the City Council. Chair Vilelle indicated he has concerns over the backboard maintenance and he would like to ensure there would be tennis players using the backboard before recommending one. Mr. Hayashi stated he has spoken to adults and students who expressed interest in seeing a backboard installed. Future formation of a tennis club could possibly allow for tennis court maintenance and improvements. Commissioner Baron stated he would like more details, specifications and mounting information from the backboard company, Mr. Hayashi stated he believed he had been provided all the information the company had available. **Motion made by Commissioner Parrish to accept the proposal and forward to City Council for approval; motion seconded. Discussion pursued. Commission voted; the motion carried with Commissioner Hartmann opposing. Matter forwarded to City Council for June 22<sup>nd</sup> meeting.**

**INFORMATION UPDATES/DISCUSSION ITEMS**

A. *Easy Manor Park* – Commissioner Brown advised that the park prep work will start in late June, followed by plumbing of restrooms in early July, and playground equipment installation by the summer youth employment crew in July. Commissioner Baron thought the high school football team may want the large tires for training. Completion date scheduled for September.



- B. *Lower Stout Park* – Commissioner Parrish advised that the Lower Stout Park Subcommittee is presenting to the community their Lower Stout Park plans at the August - 2<sup>nd</sup> Saturday Art Walk to start raising funds and selling bricks. Final design cost estimated between \$80,000 - \$100,000 for materials, final amount will depend on the number volunteer labor hours.

### COMMISSIONER REPORTS/COMMENTS

Commissioner Hartmann – Acknowledged Michelle Benoit for her contribution to the Park and Recreation Commission and the recent passing of Pauline Olsen who really loved parks and trees and came before the Commission many times. She thanked Mr. Hayashi for coming before the Commission and wanting to bring improvements to the parks.

Commissioner Parrish – Stout Mountain Railway had a strong showing during the Azalea Festival, and are planning a miniature fireworks show on July 3<sup>rd</sup>. The Railway has scheduled events also for the August Art Walk, Halloween, between Thanksgiving and Christmas depending on the weather and a showing for the Garden Club. The Capella is having great attendance and volunteer support. Commissioner Baron advised there is a new window cleaning company in town that may be available to wash the windows. Commissioner Parrish advised pressure washing of windows is not possible as they are not sealed for that.

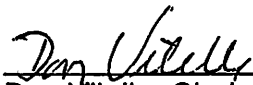
Chair Vilelle – Azalea Park Foundation not meeting on a regular basis but they will advise when the next meeting is.

Staff – John Cowan advised that Mayor Anderson would like the Commission to know he thought the parks looked very nice over Memorial weekend was very happy with the condition of the parks. Constitution Way construction will begin in mid-June and Public Works will be moving trees in and around the botanical garden area. Landscape plans not on paper yet, utility companies still putting in trenches.

### ADJOURNMENT

With no further business before the Commission, the meeting adjourned at 8:22 pm. Next meeting scheduled for June 25, 2009.

Respectfully submitted,



Don Vilelle, Chair

(approved at June 25, 2009 meeting)