

City of Brookings

WORKSHOP AGENDA

City Council

Monday, August 3, 2009, 4:00pm

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

1. Call to Order

2. Roll Call

3. Topics	Page #
• Curry County Law Enforcement Blue Ribbon Committee.	4
• Burn Permits.	13
• URA/SDC Agreement.	25

4. Council Member Requests for Workshop Topics

5. Adjournment

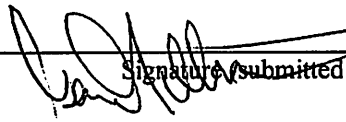
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CITY OF BROOKINGS

Council WORKSHOP Report

Workshop Date: August 3, 2009

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Curry County Law Enforcement Blue Ribbon Committee

Background/Discussion:

The Curry County Board of Commissioners appointed a Law Enforcement Blue Ribbon Committee in September, 2008. The purpose of the Committee is to "review, discuss, design, and develop a special tax district or other stable funding resources for Curry County Public Safety." Chief Wallace and the City Manager were appointed to the Committee, which has been meeting monthly and is currently conducting a series of community information workshops.

The County has retained a consultant to assist in the development of a long range plan for providing and funding law enforcement services. In the context of this discussion, "law enforcement" includes all Sheriff services (patrol, investigation, 9-1-1, search/rescue, jail, and civil services), District Attorney, probation and juvenile services. A preliminary report from the consultant is expected in September. The Committee has targeted the May, 2010 election to bring the measure to the ballot.

The federal government plans to discontinue timber tax replacement funding (known as O&C funding) to Curry County in 2011. This will have a devastating effect on County government. In reviewing the financial data provided by the County, it appears that the County would be unable to sustain even a rudimentary level of law enforcement services. Even now, the County is struggling to sustain a minimal level of services, and closure of the County jail could occur at any time as its condition continues to deteriorate.

The County law enforcement funding situation has a direct impact upon the City's ability to provide an adequate level of law enforcement services in several ways:

1. Today, Brookings police officers are often the only law enforcement officers on duty in Curry County. This situation will become significantly more problematic if there are no Sheriff "road deputies" available to provide backup support or respond to life-threatening emergencies in progress in unincorporated areas adjacent to the City.
2. Lack of jail services will require City police officers to drive longer distances to book arrestees into jail (Coos County or Jackson County) removing them from service in the City for longer periods of time. As a practical matter, fewer people will be booked into jail, which will have a negative impact on crime deterrence. More convicted criminals will be released on probation and experience shorter jail sentences.
3. Lack of district attorney prosecution services is already having an impact. The Brookings Police Department generates a significant percentage of District Attorney cases. More arrestees will be "pled out" rather than prosecuted.

4. Juveniles on probation will receive less supervision and a "triage" system will need to be employed in handling crimes against juveniles and by juveniles.

In short, we are experiencing impacts from the reduced level of County law enforcement services now, and this situation will become dramatically worse if O&C funds are not replaced.

In Deschutes County, the voters approved a measure in 2006 creating a countywide law enforcement district and a permanent tax to fund the district. The Committee has been studying this model, and the consultant is developing a budget/tax rate to implement a similar model.

One question that has arisen has been: *"Why would voters within the City of Brookings vote to increase their property tax to pay for County law enforcement services, including Sheriff's patrol in the unincorporated area."* The main answer is that County law enforcement services include much more than road deputy services.

Another alternative being discussed is to identify what portion of the tax proceeds would be used for road deputies and, in the incorporated cities, remit that portion of the tax back to the cities. The cities could then use those tax proceeds to increase the level of law enforcement in the City, or reduce their tax rate by a similar amount.

Finally, there has been some discussion about the consolidation of all law enforcement services...including the three police departments...in the County, or some form of partial consolidation. The concept is that the cost of providing law enforcement could be reduced in the long run if one police agency was providing services to a population of 23,000 rather than four agencies, or if the County were broken up into three "patrol districts." See my memorandum dated January 15, 2009. The majority view on the Committee is that it would take too long to develop a consolidation plan and get all of the agencies to agree; that we need to retain current organizational/staffing structures and build budgets/tax plans around those service structures.

Attachment(s): 1) LEBRC minutes of February 18, 2009
2) City Manager memo of January 15, 2009



CURRY COUNTY LAW ENFORCEMENT BLUE RIBBON COMMITTEE

Meeting Minutes

Wednesday, February 18, 2009

Commissioner's Hearing Room, County Annex, 94235 Moore St., Gold Beach, OR 97444

Cy Vandermeer
Chair

Christine Nichols
Vice Chair

M. John Spicer
Secretary

Dan Brattain
Business Owner

Jeff Davis
School Superintendent

Deborah Krambeal
Insurance Agent

Gary Milliman
City Manager

Rory Smith
CPA

Christopher Wallace
Police Chief

David Smith
City Councilor

Russell Merkley
At-Large

Les Cohen
South County Rep.

John Hewitt
North County Rep.

TV Skinner
Central County Rep.

Thomas Brand
At-Large

John Bishop
Sheriff/LEBRC Liaison

Everett Dial
District Attorney

Kenneth Dukek
Juvenile Director

1. **Introductions/Opening:** Meeting was called to order at 1:02 p.m. by Cy Vandermeer. Members present: Cy Vandermeer, Chris Nichols, Russell Merkley, Les Cohen, David Smith, Gary Milliman, Jeff Davis, Chris Wallace, Debbie Krambeal, Tom Brand, John Hewitt, TV Skinner, Rory Smith. Others present: Les Stiles and Rod Brown of Advanced Strategies Group, Ken Dukek, Everett Dial, John Bishop, Bill Waddle and George Rhodes.

2. **Approval of Minutes:** Minutes for 2/4/09 meeting were reviewed and, upon motion made by Chris Nichols, seconded by Les Cohen and all in favor, minutes were approved as written.

3. **Approval of Bylaws, Name Change, Appointment** – It was announced that the Board of Commissioners had approved the Bylaws as revised and the name change of the Committee. Also, Russell Merkley's appointment as a member of the Committee had also been approved.

4. Old Business:

A. Website Development – Ken Dukek explained that the Committee needed to decide what it wanted on the website. A suggestion was made that the Bylaws and minutes be posted to begin with and the Committee would continue to determine what else needed to be put onto the website.

B. Sheriff's Report – Sheriff John passed around a document entitled "Scope of Work" for the Committee to review while Advanced Strategies Group made its presentation. Otherwise, Sheriff deferred the time he would have used to make a report to next time so that presentation from Advanced Strategies Group could begin.

C. Project Report and Alternatives Letter of 1/15/09 – by Gary Milliman.

Gary stated that this letter was to encourage thinking, to promote some "outside the box" thought processes. Key part of the activity is to identify what the Committee wants the level of law enforcement in Curry County to look like, determine the cost of building up to that level and decide how best to fund that level.

D. District Attorney – Tour & Presentation. This tour and presentation was put off until March 4, 2009.

5. New Business

Advanced Strategies Group Presentation. The presentation was given by Les Stiles and Rod Brown with open discussion and Q&A with attendees of the meeting throughout the presentation.

Bios of Les Stiles and Rod Brown: Rod Brown has a Bachelors and a Masters in criminal justice. Experience as a police chief, 911 director, undersheriff. 30+ years experience in the field. Les Stiles has a Bachelors in English and a Masters in Public Administration; has 30+ years in law enforcement; was the former Sheriff for Deschutes County; began accreditation process for law enforcement agencies in Oregon and was a member of the standards committee; and, spent six years developing, planning and forming two independent tax districts in Deschutes County.

Tax District(s): Must be formed because timber revenue is going away and will not be replaced. Tax districts can only be formed in even-numbered years of general election. Law enforcement special district is allowed under ORS 451.010. ORS 451.435 states that district formation is to be initiated, conducted and completed as provided for under Chapter 198, Special Districts. This is legal source for Committee's purpose. Stick with forming only one tax district. Advanced Strategies Group will do the data acquisition, data mining

and analysis to come up with tax rate needed to fund law enforcement in Curry County at level proposed in "Scope of Work" prepared by Sheriff Bishop. Will suggest a tax rate that will fund law enforcement as envisioned and provide incremental drop-backs down to lowest rate acceptable.

Consolidation: A wonderful, ground-breaking idea. Makes fiscal sense, reduces expenses and costs, ton of organizational benefits. Requires extensive amount of pre-planning work and community networking and communication. Must define boundaries, deal with governance issue. Resolutions supporting consolidation/regionalization are needed from Port Orford, Brookings and Gold Beach by the end of March 2009 in order to go forward with consolidation and/or regionalization in 2010. That's nearly impossible to accomplish for this project.

Strategic Planning Process: Involves all levels of the organization. Keep 20-year horizon in mind. County population forecasts are key. Find and hire an IT firm and/or individual to analyze data. Include not only law enforcement entities but also District Attorney, Juvenile Department, probation/parole and 911 to free up more discretionary dollars in general fund.

Written Legal Opinion: Get legal opinion in writing so as to develop appropriate measure and avoid challenges in court. Make sure you can give cities a "rebate" since you have to tax everyone in the district at the same rate.

Selling Tax District to Municipalities and Public: The county cannot proceed without the formal approval of all cities in the affected boundaries. Resolution of support is needed from Port Orford, Gold Beach and Brookings. If you are shooting for putting a measure on the May 2010 ballot, your filing deadline is mid-March 2010. Resolutions should be obtained by December 2009. With one tax district assessing one rate to both county and cities, consider a "rebate" to the cities in that they are already funding their law enforcement to a certain extent and, therefore, will not need as much service as the county residents. Shoot for the May 2010 ballot so that if it fails, you can try to get something on the November 2010 ballot as the next window is 2012 and that is too late as the timber revenue runs out December 31, 2011. Levy failed in Brookings because the decision to put it on the ballot took too long. Public must be educated extensively in order to pass measure. That takes time as it requires door-to-door effort. Levy isn't wanted as it's renewable, only 5 years maximum. Permanent tax district is goal. Port Orford's police levy could be for 3 years so that only one year overlaps with the tax district measure if it passes. Discuss writing in ability to lower levy if tax district passes. Stress to the public what comes with passing the measure and what goes away if the measure doesn't pass.

Retention of Advanced Strategies Group: Total cost is \$100,000. One-third required at signing. Next third is due July and the last third is due when end product (report) is delivered. Commissioners have already set some money aside for retention of a consultant.

Following the presentation, Q&A and open discussion, Gary Milliman moved that the "Scope of Work" proposal submitted by Sheriff Bishop be accepted with the one tax district idea in mind but not consolidation and that Advanced Strategies Group be hired. The motion was seconded and all were in favor. The motion passed.

6. Good of the Order

7. Build Agenda for Next Meeting/Set Meeting Date/Time – Next meeting is scheduled for March 4, 2009, at 3:00 p.m.

8. Adjourn Meeting at 2:50 p.m.



MEMORANDUM

Office of the City Manager

GARY MILLIMAN

City Manager

TO: LEBRC

DATE: January 15, 2009

SUBJECT: Project Approach/Alternatives

The purpose of this memorandum is to share some thoughts concerning the development of a proposal for submission to the Board of Commissioners.

PROCESS

In my experience, the most successful process for developing a level of service plan is to first develop preliminary level of service goals. What level of service do we want to achieve?

- 24 hour patrol?
- Maximum all response time?
- Percentage of time on patrol versus time responding to calls?
- Number of patrol officers on duty / response time proximity for officer safety?
- Adequate prosecution capacity and jail capacity to serve as a deterrent?
- Minimum percentage of sentence to be served by persons convicted of crime?
- Case workload per attorney in DA's office?
- Case workload in juvenile department?
- Percentage of juveniles diverted from criminal justice system?
- Assure communications to field officers in all areas of County?
- Maximum dispatcher calls volumes?
- What related services are to be provided: animal control/shelter, search and rescue, school resource officers, narcotics investigation?

Once we determine the level of service we want to achieve...establish the level of service goal...we begin building the plan to achieve that goal. The plan should be comprehensive and include staffing, facilities, equipment and growth assumptions.

We then test the plan against various financing alternatives...a property tax levy, sales tax, diverting resources from other services, interagency contracting...and do a cost/benefit analysis. If the financing plan does not appear to be economically or politically feasible, we revisit the level of service goals and prioritize modifications. This cycle continues until we find a "happy median" that we are comfortable recommending to the Board of Commissioners and the public.

LOOKING BEYOND COUNTY AGENCIES

Currently, the Sheriff's Department provides general law enforcement services in the unincorporated area, and the three cities provide general law enforcement services in their respective jurisdictions. There are 32 budgeted general law enforcement officers, including the three police chiefs and the Sheriff, providing general law enforcement services to a population of 21,510 spread over 1,648 square miles. All four of these agencies are interdependent at some level. The combined law enforcement budget for the four agencies is currently \$6,261,000. The Sheriff's Department attributes \$791,901 of their budget (22 per cent) to patrol services.

Only the City of Brookings currently supports at least one police officer on duty 24 hours a day, seven days a week.

The Sheriff's Department operates a 9-1-1 call center and dispatch center in Gold Beach. In addition to serving the needs of the Sheriff's Department, this communications center provides 9-1-1 services and dispatching for the Gold Beach and Port Orford Police Departments and a number of fire departments north of Cape Ferello.

The City of Brookings operates a 9-1-1 call center and dispatch center in Brookings. In addition to serving the needs of the City of Brookings, this communications center also transfers 9-1-1 calls requiring response by the Sheriff's Department and Oregon State Police, and provides direct dispatching services for five fire agencies and Cal Ore Life Flight. Only Cal Ore Life Flight pays for dispatching services.

The current organizational structure for providing law enforcement services in Curry County as described above prompts a number of questions.

- Are we currently over spending to sustain four separate agencies providing general law enforcement services to Curry County residents? Is there a more efficient and equitable way to provide and pay for general law enforcement services?
- Is it appropriate for countywide property owners, including property owners in the City of Brookings, to pay for emergency dispatching services in the unincorporated area, and for police dispatching services in Gold Beach and Port Orford?
- What portion of the emergency communications cost is attributable to non-law enforcement activity, and what is the appropriate mechanism for paying that cost?

The concept hereby advanced is to include in our evaluation of an alternative delivery system for general law enforcement services to the County and the three cities. One alternative might be to create three general law enforcement service areas (LESA) within Curry County: North, Central and South.

Conceptually, the boundaries of the North LESA would be from the Coos County line to Ophir. The Central LESA would extend from Ophir to Pistol River. The South

LESA would extend from Pistol River to the California State Line. The LESA would include the unincorporated area and the City within the LESA.

For each of the LESA's a determination would be made on an appropriate general law enforcement staffing level to serve the population within the geographic area. Considerations would include response time, hours of coverage, officer safety, service demand (# of calls).

General law enforcement services to each of these LESA's could be provided by the City Police Department (i.e., Port Orford, Gold Beach, Brookings) or by the Sheriffs Department.

The "Lakewood Plan" for law enforcement was first developed in 1958 in the Los Angeles County, where it still functions today. Under this plan, cities large (Santa Clarita, pop. 160,000+) and small (Bradbury, pop. 900) contract with the Los Angeles County Sheriff's Department for law enforcement services. A good example of how this works is in Malibu (pop. 12,500). Malibu contracts with the Sheriff's Department for a certain number of hours of service. A Sheriff's Commander or Captain is assigned as the City's "police chief," attending City Council and management staff meetings. Services and complaint handling are customized to the culture of the contracting community. While a certain number of deputies are assigned primarily to work within the City Limits, they also respond to incidents occurring in adjacent unincorporated territories. Similarly, the rather substantial resources of the Sheriffs Department are available to respond to special circumstances within the City. The result is that the City gets a higher level of service than it would otherwise be able to afford operating its own department, and the County has additional resources available as needed in the unincorporated area.

Note that area of the City of Malibu consists of 20 square miles...about **five times** the area of Brookings...and is 21 miles in length. The distance between Pistol River and the California border is 21.8 miles. The total law enforcement budget is \$5.7 million (keep in mind that California police officer compensation is significantly higher than Curry County), and includes seasonal beach patrol and motorcycle traffic officer services. A total of 18 law enforcement officers are assigned to Malibu, including supervisors and command staff. Malibu is a reasonable case study to use as part of the evaluation of the south LESA concept.

Another example borrowed from California is the contract between the cities of Maywood (pop. 23,000) and Cudahy (pop. 22,000). These two cities are non-contiguous. Cudahy dropped its contract with the Los Angeles County Sheriff and contracted, at a lower cost, with the City of Maywood for law enforcement services.

There are numerous examples of City/County law enforcement contracts in Oregon...I am just less familiar with them.

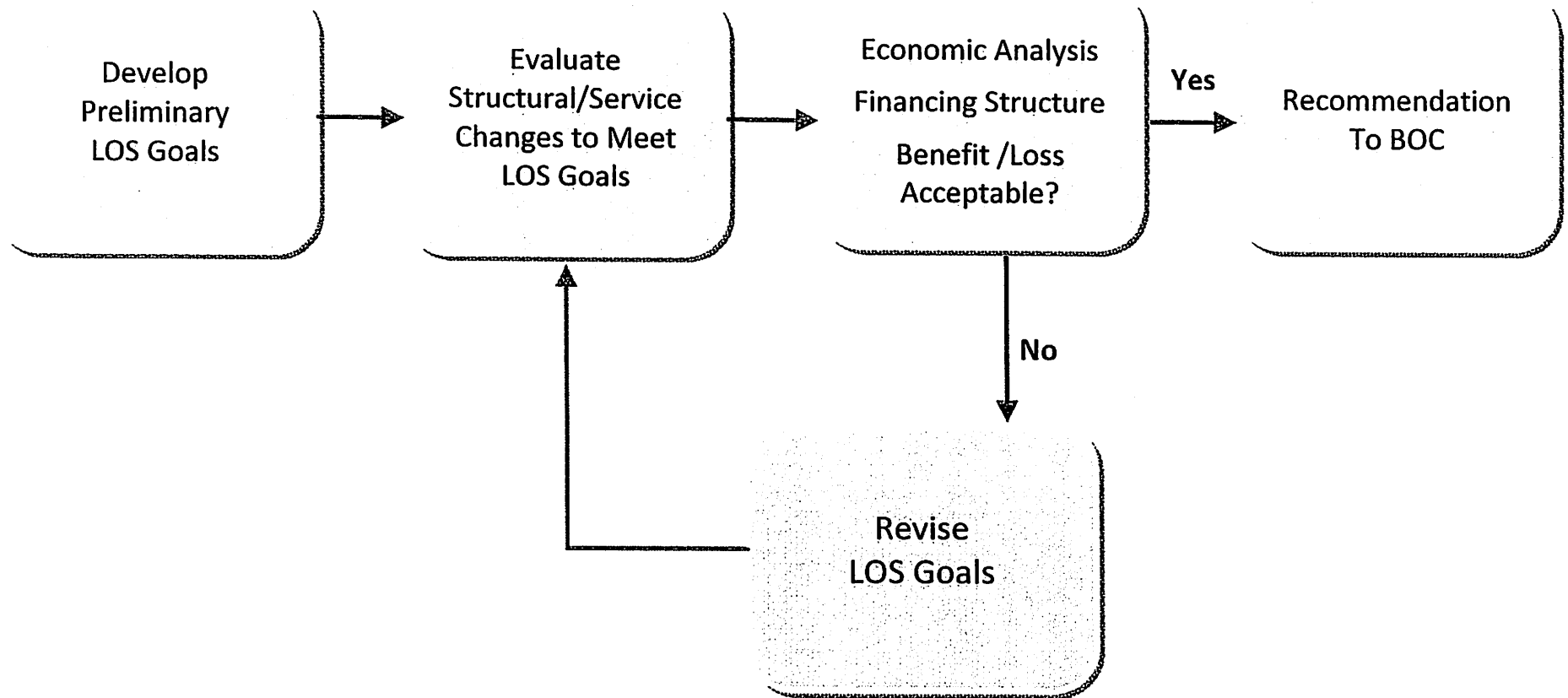
Perhaps a "Lakewood Plan" could function in reverse, with the County contracting with a City to provide law enforcement services within a designated area of the unincorporated territory. Part of the study would be to determine how many

additional police officers would need to be added to the Brookings Police Department to provide 24-hour coverage to the south LESA.

Thank you for considering these thoughts.

PROJECT APPROACH

Based on achieved Level of Service (LOS) Goals

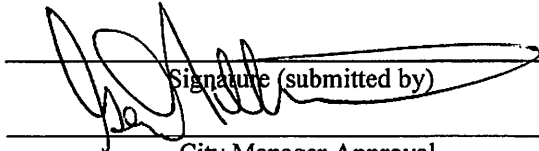


CITY OF BROOKINGS

Council WORKSHOP Report

Workshop Date: August 3, 2009

Originating Dept: City Manager


Signature (submitted by)

City Manager Approval

Subject: Burning Permits

Background/Discussion:

Councilor Kitchen initially requested that the City review its burning permit regulations with respect to burning associated with property clearance.

The City's burning regulations are found in three sections of the Municipal Code, 8.05.040, 8.05.050 and 8.05.060 (see attached). The public record indicates that the use of burn barrels was prohibited by Council action in 2005, but there is no Code section dealing with this matter (the Code section regulating burn barrels was repealed in 2007). Staff interprets Sections 050 and 060 as allowing open burning by permit, although the wording is a bit jumbled.

In October, 2004, the City Council adopted a motion to "abolish commercial open burns and construction burns within the city limits." While there was no change to the Code at that time, the Fire Department management has been following this "policy." A May 5, 2005, memorandum to the City Council from the City Manager outlined the City's "Burning Permit Regulations." As much of the information included in this document is not found in the Code, it is presumed that the regulations are rooted in past Fire Department policy and practice.

In reviewing this matter, staff recommends that the City Council consider adopting a new set of burning regulations which clearly prohibit certain types of burning, establish regulations for open burning, authorize the Fire Chief/Fire Marshall to prescribe additional requirements depending upon site conditions, and provide the Fire Chief with overriding authority to terminate burn permits if he determines that the activity is a public safety risk.

Chief Sharp and the City Manager have developed draft language which could be fashioned into an ordinance for enactment into the Code. If the City Council wishes to retain the current policy of prohibiting commercial/land clearing burns, the draft language can be modified accordingly. We would recommend that Sections 040, 050 and 060 be repealed as a part of this Code revision.

Attachment(s):

- 1) BMC 8.05.040, 8.05.050, 8.05.060
- 2) Draft language for Code revision.
- 3) October 25, 2004 City Council Minutes excerpt
- 4) June 24, 2009, from Diana and Peter Chasar.
- 5) June 22, 2009, letter from DEQ
- 6) May 5, 2005, memo from the City Manager

Brookings Municipal Code

Excerpt from Chapter 8 – Fire Hazards (Title 8 – Health & Safety)

8.05.040 Permit to burn upon public streets, alleys, or highways required.

It shall be unlawful for any person to kindle any fire or cause to be kindled upon public streets, alleys, or highways within the city of Brookings without first obtaining a written permit from the fire marshal to do so. This section does not prohibit fires necessary for the heating of pitch or tar for roofing authorized buildings or street construction or repairs. [Ord. 07-O-591 § 2; Ord. 59-O-134 § 7.]

8.05.050 Permit to burn in any open space required.

It shall be unlawful for any person within said city to burn any inflammable refuse or rubbish in any open space without first obtaining a permit so to do from the fire marshal. [Ord. 07-O-591 § 2; Ord. 59-O-134 § 9.]

8.05.060 Inspection of premises by fire marshal.

Upon receipt of an application to burn wood materials in the city of Brookings, the fire marshal shall investigate the premises where said materials are to be burned. If in his judgment such burning will not endanger life or property in the city of Brookings, he shall grant a permit for such burning, stating the exact time and place for the burning of such materials. [Ord. 07-O-591 § 2; Ord. 59-O-134 § 10.]

BURN PERMIT ORDINANCE OUTLINE

Black = original draft

Red = changes after discussion with Fire Chief

Definitions

Class A Burn shall mean the burning of, wood products containing paint, glue
preservatives or other chemical treatment, or paper, grass, hazardous materials, plastics,
asphalt, paint, tires, oil, cardboard, rubber and other refuse and rubbish in an incinerator,
burn barrel, or by open burning.

Deleted: treated

Deleted: fireplace, wood stove

Class B Burn shall mean the open burning of, wood, yard trimmings, or leaves in a pile
consisting of more than five yards.

Deleted: untreated

Deleted: tree trimmings

Deleted: or less

Class C Burn shall mean the open burning of, wood, tree trimmings, yard trimmings, or
leaves in a pile consisting of more than five yards. Any burn conducted in association
with land clearing or commercial tree removal shall be defined as a Class C Burn.

Deleted: untreated

Class D Burn shall mean a campfire conducted on private property or in designated areas
of a public park where firewood cut in lengths not to exceed, 18 inches is used. Such
burns are limited to cooking or entertainment use and shall not include the burning of
refuse.

Deleted: _____

Class A Burning Prohibited

It shall be unlawful for any person to conduct a Class A burn within the City Limits of
the City of Brookings.

Class B and Class C Burn Permits

Any person desiring to conduct a Class B or Class C Burn must first obtain a written
permit from the Fire Marshall. Any person desiring to conduct a Class C Burn must also
first obtain a written permit from the State of Oregon Department of Environmental
Quality.

Class D Burns

There shall be no permit required for a Class D Burn. The fire marshal shall have the
authority to require any Class D Burn to be immediately extinguished upon making a
determination that such burn is creating a hazard or public nuisance.

Prohibited Materials

It shall be unlawful to burn the following materials: rubber, asphalt, paint, oil, tires, kitchen garbage, disposable diapers, plastics, fiberglass or any other item that creates black smoke or an offensive odor, as determined by the Fire Marshall.

Permit Standards

All Class A and Class B Burns must be conducted between the hours of sunrise and dusk, with no starting or stoking of fires after 4:00 p.m. Attendance at the site of the burn by the permittee or his/her adult designee is required at all times. Attendant shall have immediately available sufficient water to extinguish the fire or prevent escape of the fire from the burn location, and a shovel.

Deleted: For Class B Burns, permittee must arrange to have fully-staffed fire apparatus on site.

Class B permits shall be valid for a maximum of two consecutive days and shall not be renewed for a subsequent burn until 48 hours after conclusion of the burn.

Class C permits shall be valid for a maximum of 7 days in a 30 day period.

Deleted: 10

Deleted: consecutive

Burning is prohibited on windy days.

Deleted: and shall not be renewed for a subsequent burn until 10 days after conclusion of the burn

The Fire Chief may prescribe additional standards of care and procedures for obtaining burn permits in order to administer this section and provide for the safety of life and property. The Fire Chief may cancel, modify or suspend permits in the interest of public safety.

Permit Fees

Burn permit fees shall be as established by City Council resolution.

June 24, 2009

Mayor Anderson & City Council
City of Brookings
898 Elk Drive
Brookings, OR 97415

Dear Mayor Anderson and Councilors:

We support a ban on all debris fires within city limits, whether they are commercial or private. We support this ban for the following reasons.

First, there's the issue of health. Many residents, including members of our family, suffer from allergies. Adding smoke and solid airborne products of combustion to natural allergens already in the local air increases the symptoms and suffering of all residents, especially those with allergies.

Then there's the local economy. Natural beauty and clean, clear air are major attractions to tourists visiting this area. Allowing debris fires to mar our beauty and clear air will tend choke off the tourism so critical to our local economy.

Finally, there's economic fairness. A business owner or individual who burns debris in the common airspace, instead of paying to have it mulched or placed in a landfill, is passing his/her costs onto the entire community. This economic "externality" is reflected in higher medical bills, lost tourism income, and an overall decline in the quality of life.

In short, allowing small segments of the population to pass their costs of operation and/or maintenance onto the rest of the community is unhealthy, bad for tourism, and simply unfair.

Sincerely,



Diana Chasar



Pete Chasar

The applicant, Brian Woosley, 912 Easy Street testified next. The applicant answered questions from the council. Further testimony was made by George B. Lamb III, 914 Easy Street.

The public hearing was closed at 8:40 p.m. The applicant waived his right to seven additional days to submit written testimony.

Council discussion ensued.

At 8:50 p.m. the council went into executive session pursuant to ORS192.660 (2)(h). The Council meeting reconvened at 8:56 p.m.

Councilor Dentino moved to deny the application for a variance, overturning the Planning Commission's decision. A second followed. Voting for the motion were Councilors Dentino and Johns Kern; voting against were Mickelson, Anderson, and Hagbom. Motion failed.

Councilor Mickelson made a motion to accept the Planning Commission's recommendation to approve the variance, and it was seconded. Councilors Mickelson and Anderson, and Mayor Hagbom voted for the motion; Councilors Dentino and Johns Kern voted against. The motion carried.

VII. Staff Reports

A. Fire Department

1. Open Burning Regulations

Fire Chief Bill Sharp read from a staff report a proposal to permanently end commercial burning in Brookings, citing concerns about large land clearing and commercial burning of debris.

This fire season, the City did not allow commercial burning, and it is staff's recommendation to continue this policy on a permanent basis. Martin Apps with DEQ, 340 Front Street, Coos Bay spoke in favor of the commercial burn ban.

Councilor Dentino moved, a second followed, and the council voted unanimously to abolish commercial open burns and construction burns within the city limits. The motion carried.

B. Community Development Department

- 1. Community Development Department Director Leo Lightle asked Council for authorization to award a contract for boring and placing conduit under Wharf Street and the parking lot at the Wastewater Treatment Plant. He offered background information**



Oregon

Theodore Kulongoski, Governor

Department of Environmental Quality

Western Region Coos Bay Office

381 N Second Street

Coos Bay, OR 97420

(541) 269-2721

FAX (541) 269-7984

City of Brookings
Attn.: City Council Members
898 Elk Drive
Brookings, OR 97415

June 22, 2009

RE: Open Burning in Brookings

The purpose of this letter is to provide the Brookings City Council with information about the Department of Environmental Quality's (Department) open burning program and how it relates to the City of Brookings.

With a population exceeding 4,000, the City of Brookings has been designated an Open Burning Control Area by the state of Oregon. The City of Brookings Open Burning Control Area is defined as all areas in or within three miles of the incorporated city limit.

The practice of open burning is more restrictive in open burning control areas than in other areas of the state. Any open burning of Industrial, commercial, construction, and demolition waste (which includes land clearing debris) is prohibited within the City of Brookings Open Burning Control Area unless authorized by an Open Burning Letter Permit from the Department.

In determining whether to issue an open burning letter permit, the Department will consider how close any open burning will be to residential areas, schools, hospitals, elderly care facilities, commercial centers, or any other areas where the impacts of smoke will create a nuisance or a negative health impact to its citizens. In addition, the Department is guided by Oregon Administrative Rule 340-264-0020, which states:

1. To eliminate open burning disposal practices where alternative disposal methods are feasible and practicable;
2. To encourage the development of alternative disposal methods;
3. To emphasize resource recovery;
4. To regulate specified types of open burning;
5. To encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible.

Based on the preceding information, the Department cannot guarantee that a permit for industrial, commercial, construction, demolition and/or land clearing open burning with the City of Brookings will be granted by the Department. As always, any violations of State of Oregon Administrative Rules will be investigated to determine if violations occurred and/or if enforcement referrals are necessary.



CITY OF BROOKINGS



STAFF REPORT

Date: May 5, 2005
To: Mayor Sherman & City Councilors
From: Leroy Blodgett, City Manager
Subject: Burn Barrels & Open Burns

REPORT

At a recent council work session staff was requested to put continuing of burn barrels & open burns on the agenda as a discussion item. Below are the regulations for any burning in the city limits:

BURNING PERMIT REGULATIONS And Information

BURNING PERMIT CLASSIFICATIONS

BURN BARREL PERMIT: Requires a metal barrel or other container with a heavy 1/4 inch mesh screen of at least 16-gauge wire and a ground area of approx. 20-feet in diameter cleared of all burnable materials. Hose should be nearby. FIRE IS TO BE OUT BY 10:00 am. A permit is good for the fire season.

CLASS "B" PERMIT: Open burning of a pile of yard trimmings equal in size to a pickup load or less. No Construction/Building materials or land clearing burning permitted. Burning is allowed from sunrise to 4 PM. Fire does not have to be out by 4 PM. However! No stoking or starting of fires after 4:00 pm. Must have water hose and shovel available. Permit good for the 2 days only.

Burning is allowed between sunrise and sunset. No fire is to be started or stoked after dark. Burning is not allowed on windy days. Open burns should be allowed to burn down by 4:00 pm. Burn barrels to be out by 10:00 am.

Burn piles should be given time to allow for drying. Materials should be free of mud and dirt to allow the fire to burn freely. Smoldering fires that create a large amount of smoke are

discouraged, and such fires shall either be extinguished or conditioned to burn freely. This includes burn barrels.

What can be burned?

Wood debris- yard debris/trimmings, paper/cardboard.

Materials which cannot be burned include:

Rubber, Asphalt, Paint, Oil, Tires, Kitchen Garbage, Disposable Diapers, Plastics, and anything else which will create a black smoke or an offensive odor.

For the welfare and safety of the public the Fire Department may cancel or suspend any permit.

A permit does not relieve the permittee from the responsibilities for fire damage, and the permittee may be held liable for such damage.

STAFF RECOMMENDATION

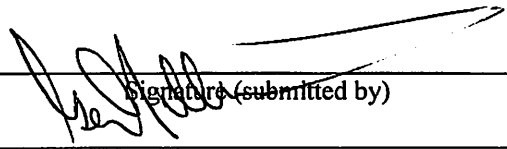
I understand this is only a discussion item. Therefore, staff has not made any recommendation.

CITY OF BROOKINGS

Council WORKSHOP Report

Workshop Date: August 3, 2009

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: URA/SDC Agreement

Financial Impact: Tax increment funds collected from within the Urban Renewal Area would be used to subsidize SDCs for restaurant conversions in the downtown business district. SDC payments would be collected from the URA as tax increment funds become available. Currently, all tax increment funds are committed for use in the downtown street project and park/landscaping projects.

Background/Discussion:

Among the recommendations in the Economic Development Strategy reviewed earlier by the City Council was a program to provide incentives for certain types of business to locate in the downtown area.

Staff has heard from various individuals that a major disincentive to locating restaurants in the downtown area is the application of System Development Charges to existing buildings. While staff believe that there are impacts to City-maintained utility systems from a higher intensity of use created by restaurants, staff has developed an alternative whereby the Urban Renewal Agency would pay a portion of the SDC for restaurant conversions.

Please review the draft agreement as it outlines the rationale for such payment, relying upon policy and planning documents that call for recruiting these types of businesses into the downtown area.

Staff recommends that the draft agreement be reviewed by the City's new City Attorney prior to placement on an agenda for action.

Attachment(s): Draft agreement between the City and URA

AGREEMENT FOR SYSTEM DEVELOPMENT CHARGE REIMBURSEMENT

This Agreement is entered into this ____ day of July, 2009, by and between the City of Brookings (hereinafter referred to as "CITY") and the City of Brookings Urban Renewal Agency (hereinafter referred to as "AGENCY") regarding the payment of System Development Charges.

RECITALS

WHEREAS, CITY has adopted certain System Development Charges (SDCs) to pay for expansion of water, sewer, street and storm drain infrastructure to support new development, and,

WHEREAS, said SDC's are assessed on existing development where a change in use is determined to change the intensity of the impact on the utility service provided, and,

WHEREAS, CITY and AGENCY have adopted an Urban Renewal Plan (2002) which calls for the use of tax increment funding to pay for street and public utility improvements within the Urban Renewal Area (URA), including water, sewer, storm and street improvements included in the CITY capital improvements plan, and

WHEREAS, Goal K of the URA plan states "Utilize this urban renewal plan and urban renewal funds to help implement the Vision and Strategies outlined in the Downtown Brookings Master Plan."

WHEREAS, CITY has developed and approved capital improvement master plans for water, sewer, storm drain and street systems, and has identified SDCs as a source of funding for implementation of such plans, and

WHEREAS, "Encourage and recruit uses to strategic downtown areas" and "Target local and visitor serving mixed use along the Chetco Avenue corridor" are implementation measures included in the Downtown Brookings Master Plan (DBMP), and

WHEREAS, due to the nature of wastewater discharge, the sewer SDCs for restaurant uses are higher than those for general commercial uses, and this has resulted in discouraging the reuse of existing buildings for restaurant purposes, and

WHEREAS, it is the desire of the CITY and AGENCY to target the attraction of restaurants into the downtown area (as defined in the DBMP), and

WHEREAS, one method to provide incentives and remove obstacles to the attraction of restaurants into the downtown area is through AGENCY participation in the payment of SDCs

AGREEMENT

NOW, THEREFORE, CITY and AGENCY agree to the following "Downtown Restaurant Conversion Incentive Program" to be funded from tax increment revenues received by AGENCY.

1. AGENCY agrees to pay to CITY the difference between the amount of sewer SDC applicable to a general commercial use and a restaurant use for existing properties in the downtown business district which are converted from general commercial to restaurant use, when such restaurant use meets the following criteria:
 - a. The restaurant must be a "sit down" restaurant offering table service to patrons.
 - b. The restaurant shall not be eligible under this program if it is a relocation from another location within the downtown area, unless the relocation results in a seating capacity increase of at least 10 per cent.
 - c. The proposed conversion must first receive all planning, building and fire code approvals of the City of Brookings.
 - d. Persons seeking to participate in the Program must submit an application to the Administrative Services Department.
 - e. Funding provided by the AGENCY under this program shall not accrue to the personal benefit of the applicant, property owner or business owner; there will be no "refund" of SDCs to any of the aforementioned parties.
2. Payment to CITY by AGENCY may be deferred for a period of up to five years to allow AGENCY sufficient time to generate sufficient tax increment revenue to make payment. In such case, CITY may assess an interest rate of _____
3. The CITY Administrative Services Director shall establish appropriate policies and procedures for the administration of this Program.