

agenda

CITY OF BROOKINGS
COMMON COUNCIL MEETING
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon
May 28, 1996
7:00 p.m.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS

V. PUBLIC HEARINGS

1. Proposed 1996-97 Budget (pink)
2. Oregon State Revenue Sharing (pink)

VI. SCHEDULED PUBLIC APPEARANCES

1. Request for monetary support - Teen Center Committee (yellow)
2. Request for monetary support - The Producer's Association of Southern Curry County - Barbara Cripe (lilac)

VII. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE

VIII. STAFF REPORTS

A. Community Development

1. Report on Request for Proposals - Ferry Creek Reservoir Feasibility Study (gold)
2. Report on bids - Public Works pickup (tan)
3. Acceptance of property for pathway - Brookhaven PUD (green)

B. Planning

1. Final Order for Comprehensive Plan/Zone Change for File No. CPZ-1-96 (Spotswood, Lea and Lee) (ivory)
2. Adoption of the South Coast Transportation Study (yellow)
3. Acceptance of Dedication Deed - Gretchen Mattison (pink)

C. City Manager

1. Request to renew License Agreement between U.S. Coast Guard and City of Brookings for radio equipment (gold)

IX. CONSENT CALENDAR

A. Approval of Council Meeting Minutes

1. May 13, 1996 Regular Council Meeting (lilac)

B. Acceptance of Commission/Board Minutes

1. April 4, 1996 Planning Commission Meeting (tan)

C. Approval of Vouchers (\$91,591.18) (green)

(end Consent Calendar)

X. ORDINANCES/RESOLUTIONS/FINAL ORDERS

A. Ordinances

1. Ordinance No. 96-O-518 - An ordinance licensing certain businesses, professions, pursuits, and occupations in the City of Brookings for revenue purposes; fixing the fees therefor; providing for an increase or decrease of the same; fixing the penalty for violation thereof; providing for the enforcement thereof; providing certain definitions; providing for a saving clause; repealing Ordinance No. 80-O-334 in its entirety; and declaring an emergency. (ivory)

B. Resolutions none

XI.

COMMITTEE REPORTS

- A. Planning Commission
- B. Parks and Recreation Commission
- C. Chamber of Commerce

XII.

REMARKS FROM MAYOR AND COUNCILORS

- A. Mayor
- B. Council

XIII.




ADJOURNMENT



May 1996



City of Brookings Monthly Activities Schedule





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June 1996



City of Brookings Monthly Activities Schedule


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9	10 7:00 PM Council Meeting	11	12	13	14  Flag Day	15																																																																																				
16  Concert - Azalea Park  Father's Day	17	18	19	20	21	22  Benefit Concert for Nikki Becker - Azalea Park																																																																																				
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July 1996



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	1	2 7:00 PM Plan- ning Comm. Meeting	3 12:00 PM City/ County/ Community Work Session	4  American Music Festival Concert	5	6																																																																																																									
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Memorandum

TO: Mayor, City Council
FROM: Bev Shields, Finance Director/Recorder
THROUGH: Tom Weldon, City Manager
DATE: May 21, 1996

Tom



Issue:

1996/97 Budget/State Revenue Sharing public hearing

Synopsis:

As required by Oregon law, a public hearing must be held to give citizens the opportunity to comment on the approved budget and the proposed uses of State Revenue Sharing funds.

Recommendation:

That the Mayor and Council hold a public hearing on the 1996/97 approved budget and the proposed uses of State Revenue Sharing funds.

Rationale:

This recommendation is consistent with the goals of the City, which, while not specifically stated in the Council goal session, are to continue city operations. (At least as long as we all want to live here.)

Background:

The State of Oregon thinks it's a pretty good idea and we've always done it before.

Options listed below are options we have reviewed and are not recommending.

None

V. 1 & 2.

May 9, 1996

Brookings City Council
898 Elk Dr.
Brookings, Ore. 97415

We, the organizers of the Teen Center respectfully propose to build a Teen Center, all the details are coming together. We, respectfully request to be included in the upcoming buget for in the amount of \$5,000 or whatever could be afforded to us.

We, have legal consultations and we have adult support. As citizens of the city of Brookings, we feel we need to begin this project now with the city's full approval. We would also like to request that the city council appoint leiason to our parent committee for guidance and support.

Respectfully Yours,

Missy Osborne

Missy Osborne

Amandah Norman

Amandah Norman

VI.1.

Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Lynette Marie McDaniel	469-2108	B.H.A.S. Teacher
2~	Beth (A) Brown	469-2108	BHHS Counselor
3~	Diane L. Kinner	469-7629	BHHS Teacher
4~	Dino Cooper	469-9612	BHHS Teacher
5~	Kathleen Dingle	469-2108	BHHS Teacher/Parent
6~	MA Ren	416- ²¹¹³ 757	Becco
7~	Lee E. Z.	469-2113	MANAGER/OWNER BECCO
8~	Melissa Whitney	469-7159	BHHS Student
9~	Amandah Norman	469-5716	BHHS Student / ^{teen c} committ
10~	Mark Traylor	469 2596	BHHS Custodian
11~	Jennifer Traylor	469-2596	AZ. Student
12~	Michael D. Norman	469-9716	Landscape ✓
13~	Lisa Shipley	469-4680	BHHS Student
14~	Candace Noyes	469-4680	Bookkeeper / parent
15~	Ch Bracantini	469-4099	BHHS Student
16~	Kevin Brown	469-5462	BHHS STUDENT BOOKKEEPER

Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Jessica Pope	469-6829	BHHS Student
2~	Frank Jenner	—	BHHS student
3~	—	—	BHHS student
4~	Sarah VanCamp	469-7256	BHHS Student
5~	James Davis	412-0242	BHHS Student
6~	—	—	—
7~	Cassidy Campbell	469-9554	BHHS Student
8~	Madison Davidson	469-7642	BHHS Student
9~	Nicholas Oliver	412-3400	BHHS Student
10~	Jessica Sabir	469-6756	BHHS Student
11~	—	—	—
12~	Clinton Burrows	469-4819	BHHS Student
13~	Steve Miller	412-0308	BHHS Student
14~	Gay A. Jorgensen	9-6734	Teacher - BHHS
15~	Josh Carbracki	9-5108	BHHS - Student
16~	Tim Blackway	9-6678	BHHS - Student

Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Tina Lang	412-0304	teacher
2~	Jim Buggs	469-5001	Teacher
3~	Frank Hamby	46-3304	B.H.H.S. student
4~	Terese Norman	469-9716 (work)	Vocational Director
5~	Steve Miller	469-2435	B.H.H.S. student
6~	Salah Wardump	469-7256	B.H.H.S. Student
7~	Angi Fleming	469-0932	B.H.H.S. student
8~	Deborah Merwin	469-5239	B.H.H.S. Student
9~	Noreen Price	469-2739	B.H.H.S. Student
10~	Jeetel Amin	Ø	B.H.H.S. student
11~	Kylie Meiwether	469-5885	B.H.H.S. student
12~	Jill Draheim	469-2059	B.H.H.S. Student
13~	Luella Middle	469-6192	B.H.H.S. Student
14~	Randy Hunter	Ø	B.H.H.S. student
15~	Lydia Callison	469-6539	B.H.H.S. Student
16~	Amy Myrah	469-0269	B.H.H.S. Student

Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Missy Osborne	469-1909	BHHS Student
2~	Kerstin Pieren	469-3504	BHHS Student
3~	Charlotte Fox	469-7590	BHHS Student
4~	Angell Wamley	469-5811	BHHS Student
5~	Melinda Maidens	469-6983	BHHS Student
6~	Manje Riddle	469-4502	" "
7~	Jaime Mills	469-8939	" "
8~	Shunie Bishop	469 —	BHHS Student
9~	Miranda Smith	469-5024	" "
10~	Alicia Meritt	469-2413	" "
11~	Annette Pyle	469 —	student
12~	Cheri Huttman	469-7169	" "
13~			
14~			
15~			
16~			

Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Mike Ryberg	469-2346	BHHS STUDENT
2~	Christa Pigg		Pizza Hut / BHHS STUDENT
3~	Andrea Hayes	469-2600	Elks Club / BHHS STUDENT
4~	FROB RUBEN	412-9111	FRED MEYER / BHHS STUDENT
5~	Brandy Freeman	469-5350	KFC / BHHS STUDENT
6~	Robert Wilson	469-9013	Teacher BHHS
7~	Holly Wessenberg	469-6838	North Bend Medical Center / BH Student
8~	Gwen Lyon	764-4569	BHHS STUDENT
9~	Daniel Lander	469-7043	BHHS STUDENT
10~	Brandon Bennett	469-7161	Student BHHS
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Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Sabrina K. Scott	469-10760	Student
2~	Rondsey J. Nap	469-2994	Student
3~	Charmaine Cooper	469-7076	Student
4~	Laura Scott	412-869	Student / Freel Writer
5~	Cupla Zimmerman	469-3994	Student
6~	Melissa Strahm	469-3664	Student
7~	Brandon Adams	469-9742	Student
8~	Laurenne Railey		Student
9~	Kim Sowell	469-2968	Student
10~	Latie Bowers	469-2380	Student
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Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Caroline Glide	469-1014	BHHS student
2~	Sean Ferguson	469-3923	BHHS STUDENT
3~	Josh Daniels	469-0377	BHHS student
4~	Jeffrey Horlock	469-5572	BHHS STUDENT
5~	Brandy Freeman		(HFC) BHHS Senior
6~	Shaloon Johnston		(Fifth St. Clinic) BHHS Senior
7~	Kristine Aeffner		BHHS Senior
8~	Rechelle Lester		BHHS Student
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Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Dan Barnett	9-8414	school BHHS STUDENT
2~	Kristen Moen	9-3585	School: BHHS STUDENT
3~	Carrie Matson	9-6129	School BHHS STUDENT
4~	Shannon Keesing	9-5140	School BHHS Student
5~	Heather VanHoosen	9-2780	School/BHHS & i work at the Redwood Theatre
6~	Melissa Getchel	9-6082	BHHS Student
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Do you want the Teen-Center?

	Name	Phone	Occupation
1~	Trina Dotson	469-2628	CNA Curry Good Sam / BHHS
2~	Khalia	469-2108	BHHS Teacher
3~	Christina Seuser	469-1076	Student
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received
5/7/96

May 3, 1996

Barbara Cripe
P.O. Box 1192
Gold Beach, OR 97444

Tom Davis
Mayor, City of Brookings
898 Elk Drive
Brookings, OR 97415

Dear Mayor Davis and City of Brookings Budget Committee,

The Animal Damage Control Program in southern Curry County will be operational for another year. As in the past 2 years, the non-federal matching funds for continuance of this essential program will come from private property owners and timber companies. The City of Gold Beach assisted with the funding for the 1995-96 fiscal year, and minimal funds will be available for the 1996-97 program from Curry County.

All of the urbanized areas in Curry County are in close proximity to wildlife populations, and there have been significant increases in nuisance and damage complaints and sightings of bears and cougars within those areas. Continuance of the Animal Damage Control Program in Curry County is vital to help ensure that potentially catastrophic conflicts between humans and wildlife are kept at a minimum.

Public safety is of paramount importance, and since one of the city government's primary responsibilities is to ensure that it's citizens are properly protected, we feel that the municipalities should be willing to help with funding of the program. And, with the increased emphasis on expansion of tourism, Curry County and the existing cities have a definite obligation to tourists for their protection.

A full time program in south Curry County is contingent upon adequate funding from all cooperative sources. As the recognized primary cooperative entity for the purposes of allocation of federal and state funds, the Producer's Association of Southern Curry County is offering the City of Brookings the opportunity to participate in the Animal Damage Control Program for another year. We are offering a buy-in fee of \$5000 for the 1996-97 fiscal year.

VI.2.

page 2

Paid participants of the program will be entitled to direct control assistance concerning public health and safety as well as serious nuisance and damage complaints. Minor nuisance complaints will be responded to on a case by case basis as time permits from the Animal Damage Control Specialist, Chad Birkholz.

Please join our Association in the cooperative responsible management of wildlife. Continual operation of this Program is vital to the control of wildlife for public health and safety, tourism, agriculture, forestry and other economic development endeavors.

Respectfully,



Barbara Cripe

The Producer's Association of Southern Curry County

cc: Tom Hoffman, USDA,APHIS,ADC
Stan Thomas, USDA,APHIS,ADC
Steve Denney, ODF&W
John Toman, ODF&W

Memorandum

TO: Mayor, City Council
FROM: Leo Lightle, Community Development Director
THROUGH: Tom Weldon, City Manager *Tom*
DATE: May 22, 1996



Issue: Awarding a contract to the firm who's proposal for studying the Ferry Creek Reservoir most meets our needs, objectivity, experience and budget amount.

Synopsis: We developed a Request for Proposal (RFP), advertised the RFP, conducted a walk through of the project and reviewed the proposals submitted.

Recommendation: City Council award the contract to study the Ferry Creek Reservoir to Dames and Moore at \$10,000 basic fee plus \$5,200 for alternatives.

Rationale: City staff, after reviewing the Request for Proposals on the Ferry Creek Reservoir Study, believe Dames and Moore best addressed the items listed to be covered in the RFP and within the budgeted amount for the basic study. This item was a City Council goal. The money for this project and alternatives is available in next year's budget under Water Distribution Improvements.

Background: City staff reviewed the RFP's and a breakdown of that review is attached.

Options listed below are options we have reviewed and are not recommending:

- 1) Not award the contract—As this is a Council goal, this alternative was ruled out.
- 2) Reject all bids and readvertise—Their appears to be no cost advantage to readvertising.
- 3) Change scope of project-this could be done, during the awarding process.

RESPONDERS TO RFP ON FERRY CREEK RESERVOIR

MONTGOMERY WATSON

\$20,000 ++

Cannot be responsive to the RFP for the budgeted amount. They are willing to look at need for Ferry Creek Reservoir, feasibility of treating Ferry Creek Reservoir water, mixing other sources. In as much as they are not responding to the listed items in the RFP, we ruled them out as a consultant.

CH₂M HILL

\$10,000

Experienced senior professionals in earthen dams, water quality and water rights will spend three days reviewing the project and will write a report advising us if its feasible to do a full feasibility study. Not responsive to items on RFP list, we therefore ruled them out as a consultant.

DAMES & MOORE

\$10,000 basic + \$5,200

Appear to be addressing all the issues in the basic bid. Their proposal shows extensive background work. Good proposal addressing all issues and within budget.

OSCAR LARSON & ASSOCIATES

\$ 8,000

Prior to the study of the project the consulting firm states "It is our judgement that the most cost-effective long-term way for the City to receive value is to put your money into water treatment capability and a storage structure rather than to invest further in the reservoir." They have decided the results before the study is done. Therefore, they are not objective and will spend the dollars justifying their conclusion. Staff ruled this firm out as not objective; lacked detailed descriptions of what they are going to do in their proposal.

HGE, INC.

\$24,300 Basic

While responsive, the proposal was over budget by an amount that does not justify awarding them the contract.

FOUNDATION ENGINEERING

\$23,960

While responsive the proposal was over budget by an amount that does not justify awarding them the contract.

Memorandum

TO: Mayor, City Council

FROM: Leo Lightle
Community Development Director *AbL*

THROUGH: Tom Weldon, City Manager *Tom*

DATE: May 21, 1996



Issue: PURCHASE OF PICKUP FOR WASTEWATER/WATER
TREATMENT PLANT EMPLOYEES USE

Synopsis: A 3/4 ton pickup is in this year's budget and is still needed.

Recommendation: Accept the proposal from Coast Auto Center.

Background: We have two proposals:

1. Coast Auto Center - \$17,543
2. Siegrist Ford - \$17,820.50

Options listed below are options we have reviewed and are not recommending.

Not purchasing a truck.

VIII.A.2.

Memorandum

TO: Mayor, City Council
FROM: Leo Lightle, Community Development Director
THROUGH: Tom Weldon, City Manager
DATE: May 21, 1996



Issue: Acceptance of right-of-way from Brookhaven that may eventually be an extension of Hassett St.

Synopsis: Brookhaven wishes to dedicate right-of-way on the northern portion of their lot which currently has a pathway built upon the proposed donation.

Recommendation: That the City Council accept the donation with the stipulation that Brookhaven executes a legal document approved by our City Attorney that the boards and fill material can remain in contact with their fence; that the City also has the option of replacing boards or fill material; that Brookhaven maintains their fence at their cost; and that Brookhaven withdraws their condition of requiring the City to pave the pathway.

Rationale: The City Council after discussion at the October 9, 1995 City Council meeting, while taking no official action other than tabling this matter, indicated that they thought the pathway served a purpose and that some cost and liability was warranted to continue making the pathway available until such a time as a proper sidewalk is installed or until the Council or future Councils decide to discontinue the use of the pathway.

Background: Brookhaven brought to the City the offer of dedicating right-of-way for property on which someone had built a pathway connecting the finished portions of Hassett Street. Brookhaven was worried about their liability, and also stated that many individuals use the path.

Originally it was stated by Rich Calkins that Brookhaven did not want boards or fill against Brookhaven's fence. There also was a problem that one end of the pathway crossed a third party's

property. The pathway could not be maintained without building against the boards which were place against the fence. I also raised the issue that the boards might have to be replaced even though they were pressure treated.

Mr. Calkins said he'd take the issue back to Brookhaven's board of trustees. Mr. Calkins came back stating the trustee's would agree to allow the boards to remain but that the boards would not have to be replaced as they were pressure treated. Brookhaven required the pathway to be paved.

The City's Building Inspector does not agree that because the boards are pressure treated that they will not have to be replaced if material is placed against the boards. Pressure treated boards used in construction are not normally in direct contact with the soil.

The dedication was brought to the Council October 9, 1995, and before the Council would vote on the accepting of the dedication they wanted several questions answered and a plat map showing the proposed dedication. At that time staff recommended that the Council not accept as a condition of dedication that the path be paved and that the City receive a legal document binding Brookhaven to allow the fill and boards to remain in place against Brookhaven's fence. The Council's questions and items were as follows:

◆ **The plat map showing the dedication**

Ms. Irene Hinkley brought the map in about three weeks ago. Ms. Hinkley has the map.

◆ **Cost of Survey**

Stuntzner Engineering, to minimize cost, proposes to "not recover anticipate any monumentation or formal map of survey. We propose to recover and tie the existing property corners and locate the wall, then prepare a sketch map and description of the area to be transferred." In January of 1996 Stuntzner offered to do the project for a not-to-exceed price of \$427.00.

◆ **Cost to replenish gravel**

Assuming we can use the County Correction's crew for the hand labor we estimate a not-to-exceed cost of \$1,000.

Memo to City Council

RE: Acceptance of R-O-W from Brookhaven

Page 3 May 14, 1996

- ◆ **Cost to make new entrance way on west end of path**
We estimate a not-to-exceed cost of \$500.
- ◆ **The issue of drainage liability**
Staff did a field reconnaissance and feel we will not incur any additional liability due to this acquisition.

Brookhaven's original proposal was to require the city to pave the pathway. It would be very costly to hand place, level and compact the asphalt.

Attached are retyped copies of:

1. Letter from Brook-Haven Trust asking the City to take ownership of the above described property. Letter dated August 14, 1995.
2. Memo from Leo Lightle to Council concerning this matter.

Options:

Listed below are the options we have reviewed and do not recommend.

1. Not accept dedication of right-of-way.
2. Accept dedication of right-of-way with no conditions.

Memorandum

TO: Mayor, City Council

FROM: Leo Lightle, Community Development Director

THROUGH: Tom Weldon, City Manager

SUBJECT: Right-of-way dedication from Brookhaven Trust

DATE: October 4, 1995



Brookhaven is asking the City to accept a dedication of additional right-of way so that an unauthorized pathway that exists on City right-of-way and Brookhaven property would be improved and maintained by the City of Brookings.

The City Planning Commission, according to John Bischoff, recommended the City accept the right-of-way and pave the path.

My concern is that to pave the path would require the paving being done by hand labor as the pathway is contained between two fences with steep slopes on both sides. A field visitation will make it very apparent that it would not be an inexpensive project. I would agree that reconstructing the west approach is needed and that may require paving. Our paving budget is limited and is planned to be used on projects submitted earlier to the City Council.

Staff Recommends: that if the Council determines that the pathway enhances our pedestrian facilities (it appears the path is used and will enhance our pedestrian facilities) that the City Council will accept the dedication; but that the Council would not accept as a condition of dedication that the path be paved, and the City Council would also receive a legal document binding the Brookhaven Trust to maintaining the grade of the path as outline by their letter.

Memo retyped May 14, 1996-original computer file lost during software upgrade.

August 14, 1995

Brook-Haven Trust
836 Brook-Haven Drive
Brookings OR 97415

Brookings Planning Commission and City Council
c/o Tom Weldon, City Manager

Dear Friends:

The City of Brookings, as primary owner, has MAJOR responsibilities for the care of maintenance of the pathway and property on the north side of the Brook-Haven fence. (The path connects the portions of Hassett Street which dead-end on both ends of Tom Long's property.)

Previously, the City has responded to the Brook-Haven Trust's request for weed control and for water diversion. (Water tends to run off Hassett Street onto Brook-Haven property, and has caused damage to Brook-Haven property in the past.)

This is to request that the City pave the pathway in a manner which disposes of water drainage and improves the public's safety and access.

The Brook-Haven Trust responsibility for the path is MINIMAL for three reasons:

1. The portion of the pathway belonging to the Trust is very small in proportion to that owned by the City.
2. The City demanded and received its portion of the property from the developer of Brook-Haven as a condition of the development—implying willingness to assume responsibility, of course.
3. The City entered into an agreement with the neighbor to the north of us for placing a water main under his driveway, and was, in effect, a party to the establishment of the steep grade to the north of Brook-Haven.

The Brook-Haven Trust has authorized me to write to you and to offer to give the City our small portion of the public path which we are asking the City to improve. (The Trust is NOT asking that the grade be changed—except to divert water run-off into the large drain which is outside our fence.) The Trust will, in other words, be responsible for maintaining the grade which is currently held by our fence and boards along the outside of the fence. the Trust also offers to extend the Hassett Street fence approximately six feet to the West so as to eliminate the possibility of pedestrians, horseback rides, bikers, and others from falling onto the small portion of our property which is outside our fence on the West fenceline.

Please give this matter your most serious attention since public safety, public access and water drainage are important matters concerning the thirty homeowners in Brook-Haven and a growing number of neighbors in the vicinity.

Sincerely,

(Signed by)

Richards I. Calkins, Chairman
469-0477

(Letter retyped 5-14-1996. Available copy is on colored paper which will not photocopy well.)

Memorandum

TO: Mayor, City Council
FROM: John Bischoff, Planning Director
THROUGH: Tom Weldon, City Manager
DATE: May 20, 1996



Issue: Final Order for File Number CPZ-1-96, a comprehensive Plan and zone change submitted by Mr. Courtland Spotswood et al.

Synopsis: The Final Order concludes the hearing process for this case which was recommended for denial by the Planning Commission and denied by the Council.

Recommendation: Adoption of the Final Order.

Background: The Comprehensive Plan Change and Zone Change was on a 1.92 acre parcel of land located on Cottage St., Pacific Ave. and Railroad St. to change the zone from Industrial Park (I-P) to General Commercial (C-3) and the Comprehensive Plan designation from Industrial to Commercial. The Planning Commission and staff recommended that the application be denied based on the findings and conclusions in the Final Order and Staff Report.

Options/Alternatives: Since the case was denied by the Council there is no other alternative.

VIII.B.1

**BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON**

In the matter of Planning Commission File No.)	Final ORDER
CPZ-1-96; application for approval of a)	and Findings of
Comprehensive Plan/Zone Change; Courtland)	Fact
<u>Spotswood and William Lea, applicant.</u>)	

ORDER denying an application for a Comprehensive Plan change from Industrial to Commercial and a Zone Change from I-P (Industrial Park) to C-3 (General Commercial) on a land totaling 1.92 acres located on Cottage St., Pacific Ave. and Railroad St.; Assessor's Map 41-13-6D, Tax Lot 1100 and 41-13-6DA, Tax Lots 1700, 1900, 1901, 2000, and 2001.

WHEREAS:

1. The Planning Commission has duly accepted the application filed in accordance with Section 144, Amendments, of the Land Development Code; and,
2. The Brookings Planning Commission has duly considered the above described application on the agenda of its regularly scheduled public hearing on April 2, 1996; and
3. Recommendations were presented by the Planning Director in the form of a written Staff Agenda Report dated March 12, 1996 , and by oral presentation, and evidence and testimony was presented by the applicant and the public at the public hearing; and,
4. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Agenda Report and recommended that the City Council **DENY** the request, and
5. The Brookings City Council has duly considered the above described application in a public hearing at a regularly scheduled public meeting held on May 13, 1996, and is a matter of record; and
6. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a **MOTION** which was duly seconded, accepted the Planning Commissions recommendation; and

THEREFORE, LET IT BE HEREBY ORDERED that the application of minor partition on the subject parcel **STANDS DENIED**.

LET IT FURTHER BE OF RECORD that the City Council in denying this application for a Comprehensive Plan/Zone change is hereinafter supported by the following findings of fact and conclusions:

FINDINGS

1. The applicants are requesting a Comprehensive Plan Change from Industrial to Commercial and a change of zone from I-P (Industrial-Park) to C-3 (General Commercial) on a 1.92 acre parcel of land consisting of six tax lots - Assessor's Map 41-13-6D, Tax Lot 1100 and Assessor's Map 41-13-6DA, Tax Lots 1700, 1900, 1901, 2000, and 2001.
2. The current I-P Zone was created in February 1993 when the then existing C-5 (General Commercial) and M-1 (Light Industrial) Zones were combined. The intent of this action was to create more industrially zoned land that would be available for industrial businesses to locate within the city. Only two uses between both previous zones were dropped when the I-P Zone was created - wrecking yards and abattoir.
3. When the I-P Zone was created the city had approximately 19 acres of land zoned C-5 and no land zoned M-1. All of the land zoned C-5 became the new I-P Zone.
4. The six tax lots currently contain a restaurant, two houses, two garages and an Industrial shell building that contains four tenants and one vacant space.
5. Three of the four tenants located in the industrial shell building are approved conditional uses of the I-P Zone. The fourth tenant is a permitted use in the I-P Zone.
6. The houses and their associated garages are preexisting non-conforming uses in the I-P Zone and in the requested C-3 Zone.
7. The restaurant preexists the current I-P Zone but would be a conditional use in the I-P Zone and a permitted use in the requested C-3 Zone.
8. The lot with the restaurant, T/L 1700, is owned by applicant Lee. The remaining lots are owned by applicants Spotswood and Lea.
9. A building permit for the industrial shell building on T/L 1100 was issued in November 1993 and completion of the building was in early summer 1994 with 24 paved on-site parking spaces.
10. When the building permit was issued, the City's Site Plan Committee had determined that 24 parking spaces were adequate for an industrial building of that size to serve most of the permitted uses allowed in the I-P Zone.
11. Each of the tenants currently in the industrial shell building had signed a lease or rental agreement prior to any consultation with the city officials to determine compatibility with zoning or parking requirements.

12. The Planning Commission has held three Conditional Use Permit hearings related to tenants in the industrial shell building and the related parking requirements. The City Council heard one appeal related to the design of the parking area for the shell building.
13. As of the date of this report the city staff considers all of the issues related to tenants and parking requirements for the shell building to be resolved. When Tax Lot 1900 is paved, striped and provided access, there will be at least 7 additional parking spaces available for the shell building.
14. In late 1995 a print shop moved into the building without an occupancy permit from the City Building Official. The print shop would have been a permitted use once the occupancy permit was obtained.

CONCLUSIONS

1. The I-P (Industrial-Park) Zone was established February 1993 with the intent of creating more vacant industrial land. The city had just lost a boat manufacturer because there was no vacant industrial land and the then existing C-5 Zone did not allow such uses. At that time there were at least two other industrial firms, a camper shell manufacturer and a parts coating firm that were interested in the Brookings area. Tax Lot 1100 of the subject application was vacant at the time the I-P Zone was created and when Mr. Spotswood purchased the property in August 1993.
2. The building permit was issued for a industrial shell building in November 1993. At that time the City Site Plan Committee had determined that the 24 parking spaces that were shown on the construction plans were sufficient to accommodate a combination of most of the permitted uses allowed by the I-P Zone.
3. The issues that have been generated around the uses established in the shell building have never been about the zoning of the building. These issues have revolved around the nature of the tenants placed in the building, the amount of parking required for those tenants and from the fact that the tenants nor Mr. Spotswood consulted with the city to determine if the tenants were compatible with the I-P Zone and to determine if there was sufficient parking for those tenants. The issue of changing the zoning on the subject property did not arise until a print shop moved into the building in late 1995 without an occupancy permit. The print shop left the building instead of pursuing the occupancy permit but it would have been a permitted use and once T/L 1900 was paved and striped, there would have been adequate parking.
4. Since the uses in the industrial shell building on T/L 1100 are more commercial than industrial, it is staff's opinion that the applicant is requesting the change of zone to bring the zoning into more conformance with the uses. This is not appropriate in that it sets a precedent to allow anyone to do the same and the tenant mix in the building is due to the

action of the applicant without regard to the underlying zone and changing the zone does not guarantee that this will not continue to be the case.

5. The change of zone would reduce the amount of industrially zoned land within the city limits by 1.92 acres. The four lots that have non-conforming houses and garage uses will eventually be converted to a use compatible with the I-P Zone. The shell building is currently occupied with conditional and permitted uses of the I-P Zone and when these tenants leave vacant space will be available for industrial uses in the building. The change of zone would not be consistent with the goals and policies of Goal 5, Economy of The State, of the city's Comprehensive Plan which call for the diversification of the economic base of the city.

Based upon the above and the supportive evidence and proposed findings of fact above listed, the Planning Commission denied Comprehensive Plan/Zone Change File No. CPZ-1-96.

Accepted and approved this May 28, 1996

Tom Davis, Mayor

ATTEST:

John C. Bischoff, Planning Director

Memorandum

TO: Mayor, City Council
FROM: John Bischoff, Planning Director
THROUGH: Tom Weldon, City Manager
DATE: May 17, 1996



Issue: South Coast Transportation Study

Synopsis: The Advisory Committee and staff have now finished the South Coast Transportation Study and will be presenting it to the Council on May 28, 1996 for acceptance. A copy of the complete text has been placed in your city mail box.

Recommendation: Adoption of the study.

Rationale: The Advisory Committee and Management Team (staff) has reviewed the study and recommends that it be adopted by the City Council and County Commissioners.

Background: The study was funded through a grant from the Oregon State Department of Transportation for the purpose of studying the area from Cape Farrello to the California state line. The purpose of the study was as follows:

1. Examine existing conditions along the Highway 101 corridor, the major intersections and the connecting streets that distribute traffic throughout the area.
2. Determine the exiting deficiencies within the existing transportation system.
3. Project the traffic conditions in the year 2015 based on the areas growth rate, expansion of the UGB and build out of major projects such as Borax, the Harbor hills and the city's golf course.
4. Determine the deficiencies that will occur in the year 2015 based on the projections of Number 3 above.
5. Determine what improvements will be needed by 2015 to mitigate the projected deficiencies.

VIII.B.4

6. Provide the basis of a Transportation Systems Plan which will be developed as a task in the periodic review work program.

The improvements suggested in the study include two couplet alternatives and the Advisory Committee is recommending that the Council and Board of Commissioners select Alternative "A" to be included in the Transportation Plan. Don Galligan of the Oregon Department of Transportation informed the Advisory Committee that ODOT was funding the refinement study for the couplet.

Other improvements recommended along the highway corridor include widening Highway 101 to four lanes for approximately Lone Ranch Beach south to the couplet, to accommodate expected build out of the Borax property, a signal at Carpenterville Rd. and Highway 101, widening of Parkview Dr., improvements to the intersection of Constitution Way and Highway 101, and improvements to West Benham Lane and a signalized intersection on Highway 101 to accommodate expected development in the Harbor hills.

Options/Alternatives:

Staff has reviewed the study and agrees with the recommendation of Alternative "A" as the preferred alternative. Other alternatives include Alternatives "B", which is another couplet scenario, and "C", which is six lanes within the existing highway right-of-way.

Memorandum

TO: Mayor, City Council
FROM: John Bischoff, Planning Director
THROUGH: Tom Weldon, City Manager
DATE: May 20, 1996



Issue: Dedication deed acceptance.

Synopsis: Acceptance of a dedication deed for right-of-way purposes.

Recommendation: Acceptance of the deed.

Background: The deed is to fulfill the conditions of approval for a minor partition of a parcel of land located in the northwest corner of Seventh St. and Hassett St. to provide additional right-of-along the southerly boundary of the parcel for the westward extension of Hassett St.

Options/Alternatives: Staff has reviewed and discussed other alternatives and selected the acquisition of the needed right-of-way.

VIII. B.5

BARGAIN AND SALE DEED (INDIVIDUAL)

GRETCHEN D. MATTISON, TRUSTEE, GRETCHEN D. MATTISON TRUST, dated November 15, 198
convey(s)

to CITY OF BROOKINGS

all that real property situated in Curry County, State of Oregon, described as:

REAL PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED
HERETO AND BY REFERENCE MADE A PART HEREOF
DEDICATED FOR RIGHT-OF-WAY PURPOSES

The true and actual consideration for this transfer is \$ NIL *

**

Dated this 16 day of May, 1996.

[Signature]
Gretchen D. Mattison, Trustee

STATE OF CALIFORNIA, County of _____) ss.

May, 1996 personally appeared the above-named

Gretchen D. Mattison, Trustee and acknowledged the foregoing

instrument to be her voluntary act and deed.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930

Before me:

[Signature]
Notary Public for California
My commission expires:

* The dollar amount should include cash plus all encumbrances existing against the property to which the property remains subject or which the purchaser agrees to pay or assume.

** ~~If consideration includes other property, you must add the following: "However, the actual consideration consists of or includes other property or interests given or promised by the grantor to the grantee."~~
(Indicate which)

**BARGAIN AND SALE DEED
(INDIVIDUAL)**

Gretchen D. Mattison, Trustee

TO

City of Brookings

After Recording Return to:
Curry County Title, Inc.
P. O. Box 672
Gold Beach, OR 97444
Send tax statement to:
City of Brookings
222 Elk Drive

STATE OF OREGON, _____)
County of _____) ss.

I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock ____ M. and recorded in book _____ on page _____ Record of Deeds of said County.

Witness my hand and seal of County affixed.

Title.

EXHIBIT "A"

A parcel of land lying within the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ -SE $\frac{1}{4}$) of Section 31, Township 40 South, Range 13 West, Willamette Meridian, City of Brookings, Curry County, Oregon, being more particularly described as follows: Beginning at a point lying on the south line of said Section 31, being North 89°34'07" West 688.56 feet from the southeast corner of said Section 31, thence North 89°34'07" West, along said Section line, 306.23 feet; thence North 00°20'47" East, leaving said Section line, 50.00 feet; thence South 85°02'16" West 307.24 feet to a point lying on the Westerly right of way line of Seventh Street; thence South 00°21'52" West, along said right of way, 25.73 feet to the Point of Beginning.

State of California

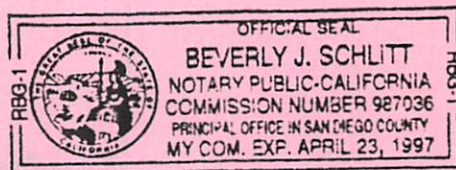
County of San Diego

On May 16, 1996 before me, Beverly J. Schlitt, Notary Public,

personally appeared Gretchen D. Mattison,
[] personally known to me - OR - [X] proved to me on the basis of satisfactory evidence to
be the person whose name is subscribed to the within instrument and acknowledged to me
that she executed the same in her authorized capacity, and that by her signature on the
instrument the person or the entity upon behalf of which the person acted, executed the
instrument.

WITNESS my hand and official seal.

Beverly J. Schlitt
Beverly J. Schlitt, Notary Public



----- OPTIONAL -----

DESCRIPTION OF ATTACHED DOCUMENT

Bargain & Sale Deed
Title Or Type Of Document

5/16/96 2
Date Of Document No. Of Pages

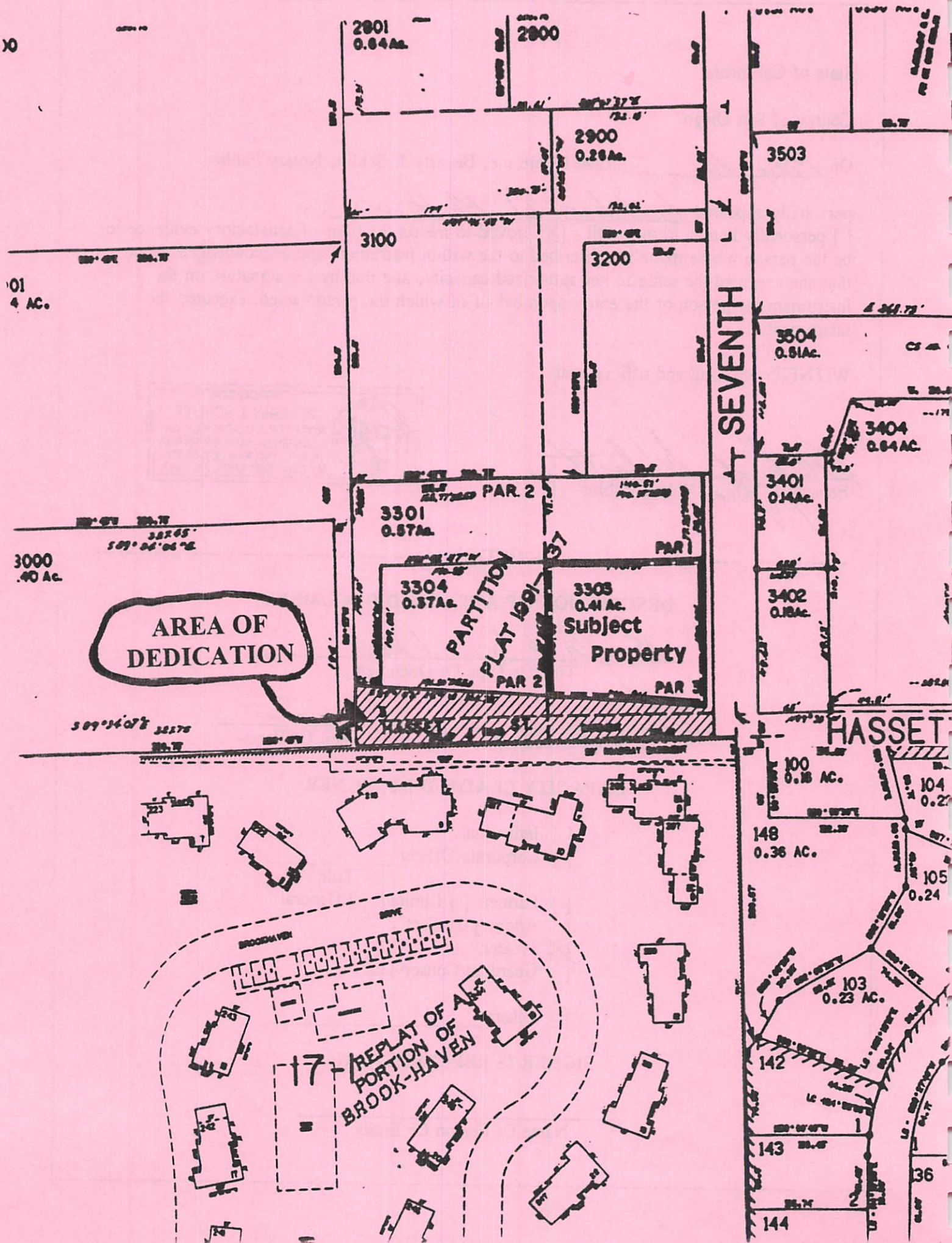
CAPACITY CLAIMED BY SIGNER

- [] Individual
[] Corporate Officer _____ Title
[] Partner [] Limited [] General
[] Attorney-In-Fact
☒ Trustee
[] Guardian/Conservator
[] Other: _____

SIGNER IS REPRESENTING:

Name Of Person Or Entity

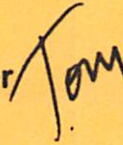
10



Memorandum

TO: Mayor, City Council

FROM: Tom Weldon, City Manager



DATE: May 20, 1996

Issue: REQUEST FOR RENEWAL OF AGREEMENT BETWEEN U.S. COAST GUARD AND CITY OF BROOKINGS FOR INSTALLATION OF RADIO REPEATER EQUIPMENT AT WASTEWATER TREATMENT PLANT

Synopsis: This is a renewal of an existing agreement allowing the U.S. Coast Guard to place radio repeater equipment at the wastewater treatment plant.

Recommendation: That Council approve renewal of the agreement.

Background: In 1983 the Thirteenth District U.S. Coast Guard District requested permission from the City to place radio repeater equipment at the wastewater treatment plant for evaluation purposes. On March 30, 1984 an agreement between the U.S. Coast Guard and the City was signed with an expiration date of March 1, 1986. Amendment No. 1 to the agreement was signed in January, 1986, extending the agreement to September 30, 1996. The U.S. Coast Guard is again asking for an extension of the agreement to September 30, 2006.

VIII.C.1

U.S. Department
of Transportation

United States
Coast Guard



Commander
Maintenance & Logistics
Command Pacific

Bldg. 54-D; Coast Guard Island
Alameda, CA 94501-5100
Staff Symbol: sr
Phone: (510) 437-3852

11011
11 January 1996

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

received
1/16/96

Dear Sir:

Under the provision of a license agreement (our number DTCG-Z71113-84-008L) you allow us to install, operate and maintain communications equipment in your Warf Street, Brookings sewage and disposal plant. Enclosure (1), a copy of the agreement, is provided for reference.

We have a continuing operational need for the space and wish to have the agreement renewed. Enclosure (2), a draft replacement license, is forwarded for your review. If you agree with the draft we will sign and send a smooth copy. However, if you have concerns with the draft, please let us know so that a mutually satisfying and beneficial agreement can be developed.

Your cooperation will be greatly appreciated. I may be contacted at the number provided above.

Sincerely,

ALEXANDRIA APPRIENTICE-YAUS
Realty Specialist
U.S. Coast Guard
By direction of the Commander

Encl: (1) Copy of DTCG-Z71113-84-008L as amended
(2) Draft License

Copy: CGD Thirteen (ao)(dpl)
CG Group North Bend

US Department
of Transportation

United States
Coast Guard



Commander
Thirteenth Coast Guard District

915 Second Avenue
Seattle, WA 98174-1067
Staff Symbol: (flp-2)
Phone: (206) 442-5723

Amendment No. 1
to License DTCG-Z71113-84-008L
Brookings Repeater Site

THIS AMENDMENT, made and entered into by and between
The City of Brookings
whose address is 898 Elk Drive
Brookings, Oregon 97415

hereinafter called the Licenser and the UNITED STATES OF AMERICA, hereinafter called
the Licensee:

WHEREAS, the parties hereto desire to amend the above License.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant
and agree that the said License is amended, effective 1 March 1986, as follows:

Clause K. is hereby amended to read as follows:

K. To have and to hold the said premises for the term beginning 1 March 1986
through 30 September 1986. From year to year thereafter, but not beyond
30 September 1996, this License shall be automatically renewed without further
notice unless terminated in accordance with Clause "J"; Provided that adequate
appropriations are made available by Congress from year to year.

All other terms and conditions of the License shall remain in force and effect.

IN AGREEMENT HERETO, the parties signed their names as of the date(s) shown.

LESSOR:

City of Brookings

By: 

(Signature)

Date: January 7, 1986

Name: Lynn R. Stuart

Title: City Manager

UNITED STATES OF AMERICA

By: 

LIN OLIGSCHLAEGER

Contracting Officer

13th Coast Guard District

Date: Jan 9, 1986

ENCLOSURE(1)

LICENSE

DTCG-Z71113-84-008L

This License is issued by the City of Brookings, 898 Elk Drive, Brookings, Oregon 97415 hereinafter called the Licensor, to the United States of America, acting through the Commander, 13th Coast Guard District, 915 Second Avenue, Seattle, WA 98174, hereinafter called the Licensee, for the purpose herein specified. By execution hereof, the parties hereto agree to comply with all terms, conditions, and general provisions set forth below.

a. The Licensor hereby grants to the Licensee the right to install, operate and maintain the following equipment on the Licensor's Sewage and Disposal Plant located on Warf Street in Brookings, Oregon as shown on attached sketch (1):

1 - A 100 Watt Motorola Micor Repeater to be installed in the S.W. end on the second floor of the plant. The unit will transmit on 168.5 mhz and receive on 165.3125 mhz.

2 - The antenna , a MORAD 156 HD will be mounted on the roof above the repeater.

3 - Electric conduit will be installed as shown.

b. Together with the right of ingress and egress across property of the licensor necessary or convenient for the installation, operation, and maintenance of the equipment. The right of ingress and egress shall insure to the benefits of the licensee and its duly authorized agents, representatives, contractors, and employees.

c. The Licensee does not acquire hereunder any estate as permanent interest of whatever nature in the subject real property. This License shall be neither assignable nor transferrable by the Licensee.

d. The Licensor agrees not to erect or to allow to be erected on the property licensed hereby or on adjacent property of the Licensor, any structure or obstruction of whatsoever kind or nature as it will interfere with the proper operation of the Micor Repeater to be installed by the Government under the terms of this License.

e. The Licensee, in the manner and to the extent provided by the Federal Tort-Claims Act. as amended (28 U.S.C., Sections 2671-2680) shall be liable for, and shall hold the Licensor harmless from, claims for damage or loss of property, personal injury, or death caused by the acts or omissions of the Licensee or its officers, or death caused by the acts or omissions of the Licensee or its officers, employees, or agents in the use of the granted premises.

f. The Licensor will provide electrical power for the repeater and shall not charge the Licensee any rental fees so long as this License is in effect.

g. The Licensee will not substantially change the equipment nor relocate the equipment on the premises without so informing the Licensor.

h. All improvements installed by the Licensee shall remain the property of the Licensee during the term of this License. The Licensee shall remove the repeater and antenna within three months of termination. The electric conduit installed shall remain in place.

i. The terms and provisions of this License and the conditions herein shall bind the Licensor, and the Licensor's administrators, successors, and assigns.

j j. Licensor or Licensee may terminate this License by giving the other party at least 60 days' written notice.

k. This License will not become effective until the latest date upon which each has signed and dated this License and will continue through 30 September 1984. This License shall at the option of the Licensee (Government) be automatically renewed from year to year without further notice, PROVIDED that adequate appropriations are available from year to year and PROVIDED FURTHER that the termination provisions of Clause "j" remain applicable and PROVIDED FURTHER that this license shall in no event extend beyond 1 March 1986.

IN AGREEMENT HERETO the parties have subscribed their names as of the dates show below.

LICENSOR

CITY OF BROOKINGS

By: Bob Kerr
(Signature)

Date: March 30, 1984

Name: Bob Kerr
Type or Print

Title: Mayor

LICENSEE

UNITED STATES OF AMERICA

Lin Oligschlaeger
LIN OLIGSCHLAEGER
Contracting Officer
13th Coast Guard District

Date: 12 April 1984

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SKETCH 1

City of Brookings, Oregon

License

The **CITY OF BROOKINGS**, 898 Elk Drive, Brookings, Oregon 97415, acting by and through the Mayor, whose mailing address is Post Office Box 385, 898 Elk Drive, Brookings, Oregon 97415 (hereafter called "LICENSOR"), grants to the **UNITED STATES COAST GUARD**, acting on behalf of the United States Government, by and through the Commander (sr), Maintenance and Logistic Command Pacific, whose mailing address is Coast Guard Island, Building 54-D, Alameda, California, 94501-5100 (hereafter called "LICENSEE"), a Revocable License to install, operate and maintain a repeater station in LICENSOR's Warf Street sewage and disposal plant subject to the following terms and conditions.

1. The LICENSOR grants to the LICENSEE the non-exclusive right to use the described premises or facilities together with the non-exclusive right of ingress and egress upon the roadways of the City of Brookings sewage and disposal plant.
2. This License shall be in effect for the period 1 October 1996 to 30 September 2006. This License may be revoked by either party by giving the other party at least sixty (60) days notice in writing.
3. The LICENSEE shall use the licensed premises for the sole purpose of installing, operating and maintaining a repeater station.
4. Equipment:
 - a. This following equipment will be utilized by LICENSEE:

A 100 watt Motorola Micor Repeater
Located in the southwest end of second floor of the sewage and disposal plant,
Transmit frequency 168.5 MHz
Receive frequency 165.3125 MHz

A MORAD 156 HD antenna mounted on roof above the repeater, and

Electric conduit installed as shown on Exhibit "A", attached to and made part hereof.
 - b. LICENSEE will not substantially change the equipment nor relocate the equipment without the express written approval of the LICENSOR.
5. All equipment and improvements installed by LICENSEE remain the property of the LICENSEE. The LICENSEE shall remove the repeater and antenna within ninety (90) day of the termination of this agreement. The electric conduit shall remain in place and become the property of the LICENSOR.
6. LICENSOR agrees not to erect or allow to be erected on the property licensed hereby or on adjacent property of the LICENSOR, any structure or obstruction of whatsoever kind or nature that interferes with the proper operation of the LICENSEE's equipment, installed by LICENSEE under this License.
7. This License shall be neither assignable nor transferable by the LICENSEE. No permanent interest in the real property subject to this License shall vest in the LICENSEE.
8. The Lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.
9. LICENSOR hereby agrees that the LICENSEE may connect with the electrical power outlets of the LICENSOR for the supply of current and that the LICENSOR will make no charge for the power thus used.
10. The LICENSEE, in the manner and to the extent provided by the Federal Tort Claims Act, as amended (28 U.S.C. Sections 2671-2680) shall be liable for, and shall hold the LICENSOR harmless from, claims for damage or loss of property, personal injury or death caused by the acts or omissions of the government, its officers, employees and agents in the use of the licensed premises. However, nothing in this Lease shall constitute an obligation of funds of the United

States in advance of an appropriation thereof.

11. The LICENSEE is a self insured entity.

12. The use and occupancy of said space shall be without expense to the LICENSEE.

13. No member or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this License or any benefit to arise therefrom, but this provision shall not be construed to extend to this License if made with a corporation whose membership, includes a member or delegate to Congress or Resident Commissioner, who indirectly receives a general benefit from this License.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the dates below.

UNITED STATES OF AMERICA
U.S. COAST GUARD

BY _____

W. T. DAVIS
LCDR, U.S. Coast Guard
Chief, Real Property Branch
By direction of the Commander

Date

THE CITY OF BROOKINGS

BY _____

Signature

Date

Title

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W. ENTRANCE
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ABOUT 50' to 60'

STORAGE SHELVES

EXHIBIT (A)

MINUTES

CITY OF BROOKINGS

COMMON COUNCIL MEETING

Brookings City Hall Council Chambers

898 Elk Drive, Brookings, Oregon

May 13, 1996

7:00 p.m.

I. CALL TO ORDER

Mayor Davis called the meeting to order at 7:07 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Council Present: Mayor Tom Davis, Councilors Larry Curry, Nancy Brendlinger, Bob Hagbom, Ex-Officio Marci Wallace

Council Absent: Councilor Dave Scott

Staff Present: City Manager Tom Weldon, Administrative Assistant Donna Van Nest, City Attorney Martin Stone, Community Development Director Leo Lightle, Planning Director John Bischoff

Media Present: Anita Rainey, Curry Coastal Pilot; Joel Buffington, KURY; Martin Kelly, KCRE

IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS none

V.

PUBLIC HEARINGS

1. Request for a Comprehensive Zone Change from Industrial to Commercial and a Zone Change from I-P (Industrial-Park) to C-3 (General Commercial) - Applicants Courtland A. Spotswood, William M. Lea and George Lee

Mayor Davis opened the public hearing at 7:08 p.m.

City Attorney Martin Stone reviewed the procedural background, described the nature of the hearing and the applicable criteria, and announced the procedural requirements set forth in ORS 197.763.

Mayor Davis asked if anyone objected to the jurisdiction of the City Council to hear this matter. There was no response.

Mayor Davis asked whether any Councilor wished to abstain from participating on this application because of a conflict of interest or bias. There was no response.

Mayor Davis asked if any Councilor needed to declare an ex-parte contact due to contact with the applicant, any other party involved, or any other source of information regarding the subject of the hearing. Councilor Brendlinger stated that she was the Council liaison to the Planning Commission and was present at the Planning Commission meeting at which the Spotswood, Lea and Lee zone change application was considered, but did not make any conclusions concerning the application.

Mayor Davis requested that the presentation of the staff report be waived due to the absence of the applicant from the hearing.

Mayor Davis asked that the applicant or his representative speak in favor of the applications. There was no response.

Mayor Davis asked if any member of the audience wished to speak in favor of the proposal. There was no response.

Mayor Davis asked if anyone wished to speak in opposition. There was no response.

Mayor Davis closed the public hearing at 7:17 p.m. for Council deliberation.

Councilor Curry moved, Councilor Hagbom seconded and the Council voted unanimously to deny Case File No. CPZ-1-96 (Spotswood, Lea and Lee Zone Change Application) based on the findings and conclusions stated in the staff report.

Councilor Hagbom moved, Councilor Curry seconded and the Council voted unanimously to direct Planning Director John Bischoff to prepare the findings and conclusions of Case File No. CPZ-1-96 (Spotswood, Lea and Lee Zone Change Application).

VI. SCHEDULED PUBLIC APPEARANCES

1. Request for contribution to the PARENT AID Program - Lieutenant Mark Metcalf, Curry County Sheriff's Office

Lt. Mark Metcalf of the Curry County Sheriff's Office and Director of Curry Community Corrections Grant Nelson, requested a contribution of \$200.00 from the City to help fund the PARENT AID Program in Curry County. PARENT AID is a program of community cooperation to help parents with their children's potential drug problems through confidential, free, reliable drug testing. A memo from Chief of Police Kent Owens supporting the program was presented to the Council.

Councilor Curry moved, Councilor Brendlinger seconded and the Council voted unanimously to contribute \$250 from the 1995-96 fiscal year budget and \$250 from the 1996-97 fiscal year budget to the PARENT AID Program.

2. **Appeal of administrative decision - Appellant David Pettigrew, 924 7th Street**

Mr. David Pettigrew, 924 Seventh Street, requested relief from the City to repair a surface water drainage problem on his property.

Following a presentation by Mr. Pettigrew, staff input and Council discussion, Mayor Davis and the City Council suggested to Mr. Pettigrew that he have his contractor contact City Engineer Richard Nored for a possible solution to the problem of water surface drainage on his property at 924 Seventh Street. No formal action taken.

VII. **ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE**

Charlie Steak, representing the proponents of the proposed teen center, introduced two members of the newly formed Board, Lorraine Kuhn and Joy Metcalf. Ms. Kuhn indicated that much fund raising will be done and the teens have indicated a willingness to work toward a goal of a teen center. No formal action taken. They were advised that this matter is scheduled for the May 28 Council agenda. No formal action taken.

Irene Hinkley, representing Brookhaven, requested that the City accept a portion of pathway property from Brookhaven. Ms. Hinkley was told that this item would be placed on the Council agenda for May 28. No formal action taken.

VIII. **STAFF REPORTS**

A. **Community Development**

1. **Intergovernmental Agreement - City of Brookings and Curry County, Brookings/Harbor Urban Growth Management**

Planning Director John Bischoff advised that the City has been awarded a grant of approximately \$40,000 by the Oregon Transportation Growth Management Program which is a joint program of the Department of Transportation and Department of Land Conservation and Development. The grant will be used to hire a consultant

to undertake a study of the urbanized area around Brookings and Harbor to determine the ability of the lands within the study area to accommodate future development, create policies and strategy to encourage in-fill and sequential development and to create a transportation efficient land use pattern that is less dependent on Highway 101 and promotes walking and bicycling. The City's 10.30% grant match is provided through staff time. Staff recommended that the Council approve the intergovernmental agreement.

Following discussion, Councilor Brendlinger moved, Councilor Curry seconded and the Council voted unanimously to table the Transportation Growth Management Agreement to the May 28 Council meeting.

B. City Manager

1. Discussion of Harbor Sanitary District Sewage Treatment Plant Construction Policy

The City Manager was directed to set up a Council meeting to discuss this subject. No formal action taken.

IX. CONSENT CALENDAR

Councilor Hagbom moved, Councilor Curry seconded and the Council voted unanimously to approve the Consent Calendar as follows:

A. Approval of Council Meeting Minutes

1. April 15, 1996 Special Council Meeting
2. April 22, 1996 Regular Council Meeting

B. Acceptance of Commission/Board Minutes

1. April 10, 1996 Systems Development Charge Review Board

(end Consent Calendar)

X. ORDINANCES/RESOLUTIONS/FINAL ORDERS

XI. COMMITTEE REPORTS

A. Planning Commission

B. Parks and Recreation Commission

C. Chamber of Commerce

Executive Director Les Cohen briefed the Council on the upcoming Azalea Festival activities.

XII. REMARKS FROM MAYOR AND COUNCILORS

A. Mayor

B. Council

Councilor Curry briefed the Council on a meeting he attended of CPACT (Coastal Policy Advisory Committee on Transportation.) This committee is now being handled by OCZMA (Oregon Coastal Zone Management Association), instead of being directly handled by ODOT (Oregon Department of Transportation).

Councilor Curry moved, Councilor Brendlinger seconded and the Council voted unanimously to become a link between the City of Brookings and CPACT (Coastal Policy Advisory Committee on Transportation).

XIII. ADJOURNMENT

Councilor Hagbom moved, Councilor Brendlinger seconded and the Council voted unanimously to adjourn the meeting at 8:43 p.m.

Tom Davis
Mayor

MINUTES
BROOKINGS PLANNING COMMISSION
REGULAR MEETING
April 4, 1996

The regular meeting of the Brookings Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Brookings City Hall on the above date with the following Commission members and staff in attendance.

Ted Freeman	Earl Breuer
Judi Krebs	Dave Ham
Marv Lindsey	John Bischoff, Planning Director
George Ciapusci	Linda Phillips, Secretary
Chet Singleton	

MINUTES

By a 7-0 vote, (motion: Commissioner Breuer, second: Commissioner Ciapusci) the Planning Commission approved the minutes of the March 5, 1996, Planning Commission regular meeting. Also approved by a 7-0 vote, (motion: Commissioner Ciapusci, second: Commissioner Freeman) were the minutes of the March 13, 1996, Planning Commission joint meeting with the Capital Improvements Plan Committee.

FINAL ORDERS

None

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON WRITTEN REQUESTS AND COMMUNICATIONS

1. By a unanimous vote, (motion: Commissioner Krebs, Second: Commissioner Freeman) the Planning Commission approved (File No. MC-1-95); a request for an extension of time for the minor change granted March 7, 1995, to replace an existing church building; located on the south side of Park Ave. west of Fern St., more specifically 102 Park Ave.; zoned R-3 (Multiple-Family Residential); Brookings Seventh Day Adventist Church, applicant; James Ball, representative.
2. By a 7-0 vote, (motion: Commissioner Freeman, Second: Commissioner Breuer) the Planning Commission approved the final map for Phase I of the Meadow Woods Subdivision (formerly referred to as the Olander Subdivision), consisting of seven lots around a new cul-de-sac at the end of Meadow Lane; located at the east end of Meadow Ln.; zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size; Allen Olander, applicant; Jim Capp, representative.

This action was taken following questions or comments regarding the request from the following people:

- | | | | |
|----|-------------|-------------------|----------------|
| a) | Jim Capp | PO Box 2937 | Harbor OR |
| b) | Al Olander | 1529 W Newgrove | Lancaster CA |
| c) | Tim Bossard | 133 NW "D" Street | Grants Pass OR |

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARING

By a 7-0 vote, (motion: Commissioner Breuer, second: Commissioner Singleton) the Planning Commission voted to deny (File No. CPZ-1-96) a request for a zone change from I-P (Industrial Park) to C-3 (General Commercial) and to send an unfavorable report to the City Council on a request for a Comprehensive Plan designation change from Industrial to Commercial for a parcel of land located fronting Cottage St., Pacific Ave., and Railroad St., more specifically 340-360 Pacific Ave., and 765, 769 and 777 Cottage St.; Courtland A. Spotswood, William M. Lea and George Lee, applicants; Michael P. O'Dwyer, representative.

This action was taken following questions or comments regarding the request from the following people:

- | | | | |
|----|--------------------|-------------|---------------|
| a) | Michael P. O'Dwyer | PO Box 1228 | Gold Beach OR |
| b) | Carl Hatfield | PO Box 371 | Brookings OR |
| c) | John Faust | PO Box 1569 | Brookings OR |

The applicant waive his right to seven (7) additional days in which to submit written argument.

The Commission recessed from 8:45 p.m. to 8:54 p.m.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON COUNTY REFERRALS

1. By a unanimous vote (motion: Commissioner Krebs, second: Commissioner Breuer) the Planning Commission voted to send a favorable recommendation to Curry County in the matter of File No. CR-P-9602; a request for a minor partition to create two lots of 7,475 and 7,710 sq. ft. in size; located on the west side of West Hoffeldt Ln.; zoned County R-1 (Residential-one); Lester and Helen Rookstool, applicants. The favorable recommendation includes a provision that the height of the fence on West Hoffeldt Lane be addressed by the Planning Director of the County in regards to a safety issue.

This action was taken following questions or comments regarding the request by the following people:

- | | | | |
|----|-----------------|---------------|------------------|
| a) | Helen Rookstool | 4135 Monrovia | Klamath Falls Or |
| b) | Denny Crowe | PO Box 2748 | Harbor OR |

2. By a 7-0 vote (motion: Chairman Ham, second: Commissioner Lindsey) the Planning Commission voted to send a favorable recommendation to Curry County in the matter of File No. CR-P-9603; a request for a lot line adjustment between two lots in the same ownership and then a minor partition of one of the parcels to create two parcels of 1.01 and 1.12 acres

for a total of three lots; located on the north side of Hilltop Rd. at the end of the road; zones County R-1 (Residential-One); Thomas K. Schultz, applicant. The favorable recommendation will include that prior to partitioning a viable water supply and sewage treatment be insured.

This action was taken following questions or comments regarding the request from the following person:

a) Reily Smith PO Box 7276 Brookings OR

It was noted in both of the above cases that Curry County did not supply adequate criteria to the Planning Commission.

UNSCHEDULED PUBLIC APPEARANCES

Allen Olander presented a proposed neighborhood circulation plan for the Olander Subdivision (approved above as Meadow Woods Subdivision). Tim Bossard asked the Planning Commission for a recommendation on the plan and the procedure to follow to take it to the City Council. Chair Ham responded that the normal application procedure for a Plan Amendment must be followed. The application is available in the Planning Director's office.

Nancy Brendlinger, PO Box 6667, Brookings OR stated, that to her knowledge, the new Urban Growth Boundary (UGB) Management Agreement will not go into effect until the new Urban Growth Boundary is finalized. Commissioner Krebs questioned why the Planning Commission is receiving county referrals if the Management Agreement is not active. Staff will check with DLCD whether we are currently operating under the old, or the new, UGB Management Agreement.

REPORT OF THE CITIZENS ADVISORY COMMITTEE

None

MESSAGES AND PAPERS FROM THE CITY MANAGER

None

MESSAGES AND PAPERS FROM THE MAYOR

None

REPORT OF THE PLANNING DIRECTOR

None

PROPOSITIONS AND REMARKS FROM COMMISSION MEMBERS

Commissioner Krebs requested that copies of City correspondence regarding planning issues be sent to Commissioners. Specifically requested is the monthly Building Department report showing addresses for properties where building permits were issued and the number of EDU's used by each.

Enforcement of Conditions of Approval was discussed: curb paint and directional signage at Ron's Oil; landscaping around the Calvary Chapel; and paving of Fern Ave at the kindergarten site. Staff reported that Ron's Oil was contacted Friday, March 26, and reminded this must be done. Commissioner Breuer reported that the church has started its landscaping and hopes to have it

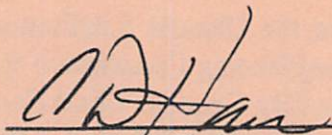
finished by Azalea Festival in May. Staff stated there is a six-month time frame for paving at the kindergarten. Processes for follow-up on Conditions were discussed.

ADJOURNMENT

There being no further business before the Planning Commission, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

BROOKINGS PLANNING COMMISSION



C. D. Ham, Chair

City of Brookings
CHECK REGISTER: CHECK # 25782 THRU 25996
For The Month Ending: April 30, 1996 ** CLOSED **
PRINTED: May 2, 1996 15:51:29

PAGE 1

CHECK #	PAID TO	DESCRIPTION	DATE	CR ACCOUNT	CR AMOUNT	ALLOC ACCT	ALLOC AMOUNT
25782	Best Western Beachfront Inn	Conf Room Rent	04/03/96	100-106.00	25.00	102-686.00	25.00
25783	Bob Hagbom	Reimbursement	04/03/96	100-106.00	262.81	102-658.00	262.81
25785	Doug Alexander	Reimbursement	04/08/96	100-106.00	144.23	105-658.00	94.09
						109-614.00	50.14
25786	Bay West Supply Inc	Inv 73780-1	04/08/96	100-106.00	116.25	109-614.00	116.25
25787	Becco Inc	304033 & 100036	04/08/96	100-106.00	333.90	103-606.00	33.90
						107-612.00	300.00
25788	Best Western Brookings Inn	Inv 9091 & 4030	04/08/96	100-106.00	44.45	103-614.00	4.25
						201-612.00	40.20
25789	Brookings Harbor Chamber	March Motel Tax	04/08/96	100-106.00	1,216.40	109-687.00	1,216.40
25790	Brookings Office Supplies	Inv 13496	04/08/96	100-106.00	92.49	102-602.00	43.77
						107-602.00	20.40
						109-602.00	11.04
						150-606.00	17.28
25791	Brookings Supply Inc	March Statement	04/08/96	100-106.00	188.06	104-606.00	5.57
						105-606.00	62.95
						251-606.00	19.14
						252-606.00	94.42
						252-612.00	5.98
25792	Brookings Vol Firefighters	April Contrib	04/08/96	100-106.00	1,583.00	104-682.00	1,583.00
25793	Budge-McHugh Supply Co	March Statement	04/08/96	100-106.00	491.60	201-612.00	373.65
						251-612.00	117.95
25794	Center for Population Research	Publication	04/08/96	100-106.00	8.00	109-602.00	8.00
25795	Chetco Pharmacy & Gifts	March Statement	04/08/96	100-106.00	22.55	103-614.00	22.55
25796	C & K Market Inc	March Statement	04/08/96	100-106.00	141.95	104-614.00	129.50
						109-686.00	12.45
25797	Coastal Coffee Service	Inv 3048 & 3063	04/08/96	100-106.00	33.30	109-614.00	33.30
25798	Curry Coastal Pilot	March Statement	04/08/96	100-106.00	361.89	102-602.00	114.00
						105-602.00	88.36
						107-602.00	20.93
						109-686.00	73.50
						150-726.00	21.70
						201-726.00	21.70
						251-726.00	21.70
25799	Curry County Treasurer	March Contrib	04/08/96	100-106.00	686.45	100-235.00	686.45
25800	Curry Equipment	Inv 22848	04/08/96	100-106.00	54.45	252-606.00	54.45
25801	Curry Tree Service	March Services	04/08/96	100-106.00	494.00	106-626.00	244.00
						150-646.00	250.00
25802	Dan's Photo & Cameras	March Statement	04/08/96	100-106.00	7.12	103-614.00	7.12
25803	DHR Child Support Unit	Garnishment	04/08/96	100-106.00	33.00	100-220.70	33.00
25804	DHR Child Support Unit	Garnishment	04/08/96	100-106.00	62.50	100-220.70	62.50
25805	Familian Northwest Inc	March Statement	04/08/96	100-106.00	128.40	251-612.00	128.40
25806	Ferrellgas	March Statement	04/08/96	100-106.00	543.82	104-647.00	169.18
						150-624.00	374.64
25807	1st Impressions	Inv 4446	04/08/96	100-106.00	74.00	109-602.00	74.00
25808	Grants For Cities & Towns	Subscription	04/08/96	100-106.00	129.00	102-602.00	129.00
25809	GTE	Inv AS51948	04/08/96	100-106.00	2,978.50	103-664.00	1,489.25
						300-664.00	1,489.25
25810	Hagens Cleaners	March Statement	04/08/96	100-106.00	40.50	103-614.00	40.50
25811	HGE Inc	Inv 10391&10392	04/08/96	100-106.00	1,166.16	201-646.00	398.85
						951-730.00	767.31
25812	ICMA-RT 457 c/o 1st Ntl Bnk MD Def Comp		04/08/96	100-106.00	705.00	100-220.70	705.00

(Continued)

City of Brookings
CHECK REGISTER: CHECK # 25782 THRU 25996
For The Month Ending: April 30, 1996 ** CLOSED **
PRINTED: May 2, 1996 15:51:29

PAGE 2

CHECK #	PAID TO	DESCRIPTION	DATE	CR ACCOUNT	CR AMOUNT	ALLOC ACCT	ALLOC AMOUNT
25813	J & M Boring	Inv 210	04/08/96	100-106.00	324.00	201-646.00	324.00
25814	Java Java Espresso Bar		04/08/96	100-106.00	21.85	102-658.00	21.85
25815	K D Electric	Inv 2233	04/08/96	100-106.00	29.95	251-624.00	29.95
25816	Kerr Hardware	March Statement	04/08/96	100-106.00	470.26	103-614.00	10.83
						104-606.00	4.39
						106-624.00	5.75
						106-626.00	449.29
25817	Kerr Hardware	March Statement	04/08/96	100-106.00	212.88	106-627.00	8.77
						109-614.00	40.68
						150-628.00	19.69
						202-606.00	73.97
						251-606.00	20.03
						251-624.00	34.98
						252-612.00	14.76
25818	LGPI Safety Series	3 Reg Fees	04/08/96	100-106.00	90.00	150-658.00	90.00
25819	Tom McKirgan	Reimbursement	04/08/96	100-106.00	21.39	103-606.00	21.39
25820	Mory's	March Statement	04/08/96	100-106.00	187.56	103-602.00	44.54
						105-602.00	23.75
						107-602.00	12.61
						109-602.00	59.71
						201-602.00	46.95
25821	Musser & Associates CPA's PC	March Statement	04/08/96	100-106.00	575.00	107-612.00	575.00
25822	National Seminars Inc	570740471-001	04/08/96	100-106.00	139.00	107-658.00	139.00
25823	Newman Signs	Inv 2045714	04/08/96	100-106.00	186.15	150-648.00	186.15
25824	Office of the Trustee	Garnishment	04/08/96	100-106.00	72.50	100-220.70	72.50
25825	OMJA	Dues-Sanders	04/08/96	100-106.00	50.00	101-664.00	50.00
25826	OR Teamster Employers Trust	April Premium	04/08/96	100-106.00	4,645.28	100-220.60	4,645.28
25827	OR Teamster Employers Trust	April Premium	04/08/96	100-106.00	7,838.91	100-220.60	7,838.91
25828	Oregon Department of Revenue	State W/H Tax	04/08/96	100-106.00	2,809.70	100-220.30	2,809.70
25829	Oregon Dept of Revenue	March Assess	04/08/96	100-106.00	2,068.00	100-234.00	2,068.00
25830	Oregon Micro-Imaging Inc	Inv 96002620	04/08/96	100-106.00	745.00	102-606.00	745.00
25831	PERS - Retirement	Payroll 4/5/96	04/08/96	100-106.00	6,170.00	100-220.70	42.48
						100-220.80	6,127.52
25832	Ramcell of Oregon	March Statement	04/08/96	100-106.00	326.48	102-664.00	72.14
						103-664.00	218.17
						104-664.00	36.17
25833	Roto-Rooter	March Services	04/08/96	100-106.00	185.00	251-606.00	185.00
25834	Square Deal Builders	March Statement	04/08/96	100-106.00	97.04	106-612.00	31.25
						150-628.00	21.38
						202-612.00	44.41
25835	Stadelman Electric	Inv 2486	04/08/96	100-106.00	105.00	252-606.00	105.00
25836	Teamsters Local Union 223	April Dues	04/08/96	100-106.00	389.00	100-220.70	389.00
25837	That Special Touch	Inv 11228	04/08/96	100-106.00	43.50	109-686.00	43.50
25838	The Self-Help Handbook	Handbook	04/08/96	100-106.00	24.95	102-602.00	24.95
25839	United Communications	March Phone	04/08/96	100-106.00	521.77	101-664.00	25.39
						102-664.00	42.25
						103-664.00	249.09
						104-664.00	85.83
						105-664.00	109.54
						106-664.00	9.67
25840	United Communications	March Phone	04/08/96	100-106.00	104.03	107-606.00	48.08
						150-664.00	21.96

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CHECK #	PAID TO	DESCRIPTION	DATE	CR ACCOUNT	CR AMOUNT	ALLOC ACCT	ALLOC AMOUNT
United Communications, (Continued)						201-664.00	8.83
						202-664.00	8.83
						251-664.00	7.50
						252-664.00	8.83
25841	U S Bank	Fed W/H Tax	04/08/96	100-106.00	12,324.14	100-220.20	4,835.66
						100-220.10	7,488.48
25842	Donna VanNest	Reimbursement	04/08/96	100-106.00	54.29	109-602.00	54.29
25843	Viking Office Products	Inv 53520	04/08/96	100-106.00	29.30	150-606.00	9.77
						201-602.00	9.77
						251-602.00	9.76
25844	Tom Weldon	Car & Reimburse	04/08/96	100-106.00	253.13	102-606.00	200.00
						102-658.00	53.13
25845	Catherine L Wilson	Bail Refund	04/08/96	100-106.00	9.00	100-232.00	67.00
						100-474.00	(19.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25846	Denise Wood	Reimbursement	04/08/96	100-106.00	50.28	107-658.00	17.90
						109-606.00	6.36
						109-614.00	26.02
25847	WW Grainger Inc	March Invoices	04/08/96	100-106.00	428.94	201-612.00	54.70
						251-612.00	374.24
25848	Xerox Corp	Inv 050711576	04/08/96	100-106.00	501.88	109-606.00	501.88
25850	Carpenter Tire & Wheel	March Statement	04/12/96	100-106.00	1,374.20	103-606.00	1,349.25
						109-606.00	24.95
25851	Cascade Fire Equipment Co	Inv 015887	04/12/96	100-106.00	212.30	104-606.00	212.30
25852	Coastal Coffee Service	Inv 3096	04/12/96	100-106.00	24.80	109-614.00	24.80
25853	Colvin Oil	March & 635927	04/12/96	100-106.00	1,382.04	103-606.00	380.60
						104-606.00	115.69
						105-606.00	28.64
						106-612.00	36.10
						150-606.00	136.95
						201-606.00	46.01
						202-606.00	46.28
						251-606.00	21.20
						252-606.00	46.27
						252-612.00	524.30
25854	Coos-Curry Electric	March Electric	04/12/96	100-106.00	2,959.39	106-662.00	24.72
						150-662.00	1,028.09
						201-662.00	1,162.16
						251-662.00	418.19
						252-662.00	326.23
25855	Nancy Corrigan	Reimbursement	04/12/96	100-106.00	55.95	107-658.00	55.95
25856	Curry Equipment Co	Inv 22915	04/12/96	100-106.00	27.50	252-606.00	27.50
25857	Dan's Auto & Marine Electric	March Statement	04/15/96	100-106.00	155.39	103-606.00	25.56
						104-606.00	13.01
						150-606.00	107.24
						251-612.00	9.58
25858	Tom Davis	March Rotary	04/15/96	100-106.00	16.00	102-658.00	16.00
25859	Delaney's Bakery	Inv 735134	04/15/96	100-106.00	8.40	106-626.00	8.40
25860	Del Cur Supply	Inv 31882&32019	04/15/96	100-106.00	107.75	104-606.00	4.75
						106-627.00	103.00

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25861	Entenmann-Rovin Co	Inv 110592	04/15/96	100-106.00	200.00	104-614.00	200.00
25862	Freeman Rock Enterprise Inc	March Statement	04/15/96	100-106.00	1,016.74	201-612.00	1,016.74
25863	BFDA	Publication	04/15/96	100-106.00	41.00	107-602.00	41.00
25864	Goldsmith Co	Inv 083334	04/15/96	100-106.00	133.66	104-614.00	133.66
25865	Green Woods	Inv 60559	04/15/96	100-106.00	22.00	104-606.00	11.00
						202-606.00	11.00
25866	GTE Northwest	March Phone	04/15/96	100-106.00	1,495.15	101-664.00	21.80
						102-664.00	79.94
						103-664.00	394.11
						104-664.00	109.02
						105-664.00	138.09
						201-664.00	132.88
						202-664.00	120.80
						252-664.00	48.32
						300-664.00	450.19
25867	Tim Henry	Inv 0033	04/15/96	100-106.00	225.00	201-646.00	225.00
25868	Independent Business Forms Inc	Inv 0025953	04/15/96	100-106.00	240.65	201-606.00	120.33
						251-602.00	120.32
25869	Leo Lightle	Reimbursement	04/15/96	100-106.00	75.10	105-658.00	55.10
						201-612.00	20.00
25870	Matt's RV & Marine Supply	Inv 3907	04/15/96	100-106.00	59.35	201-606.00	59.35
25871	Jim Crawford, Fire Marshal	Reg Fee-Sharp	04/15/96	100-106.00	250.00	104-614.00	250.00
25872	NFPA	Inv 0338551	04/15/96	100-106.00	61.15	104-683.00	61.15
25873	Oregon Department of Revenue	1st Qtr P/R Rtn	04/15/96	100-106.00	3,361.51	100-220.50	422.09
						100-220.40	2,939.42
25874	OR Department of Revenue	088497949229603	04/15/96	100-106.00	6.20	105-602.00	6.20
25875	Oregon State Bldg Codes Agency	Jan-March	04/15/96	100-106.00	582.90	100-236.00	582.90
25876	Oregon Fire Equipment Co	Inv 013895	04/15/96	100-106.00	351.86	104-606.00	351.86
25877	ORPA	Dues-Nelson	04/15/96	100-106.00	30.00	106-612.00	30.00
25878	Pacific Water Works	Inv 2028584	04/15/96	100-106.00	38.00	251-612.00	38.00
25879	PaperDirect, Inc	Inv858004800016	04/15/96	100-106.00	43.85	102-602.00	43.85
25880	Petty Cash	Reimbursement	04/15/96	100-106.00	75.59	102-602.00	27.48
						103-602.00	6.69
						103-606.00	9.70
						103-614.00	1.50
						105-602.00	15.25
						107-602.00	5.37
						107-658.00	9.60
25881	Petty Cash	Reimbursement	04/15/96	100-106.00	113.31	109-614.00	21.40
						109-624.00	7.99
						150-608.00	5.00
						201-612.00	55.00
						202-612.00	12.50
						251-612.00	7.80
						252-612.00	3.62
25882	Pitney Bowes	Inv X666506	04/15/96	100-106.00	85.00	109-606.00	85.00
25883	Larri Powers	Refund Overpay	04/15/96	100-106.00	46.48	200-134.00	46.48
25884	Reliable Corporation	Inv VRQ91500	04/15/96	100-106.00	72.98	109-602.00	72.98
25885	Sea Cove Training Center	March Statement	04/15/96	100-106.00	325.00	106-626.00	325.00
25886	South Harbor Welding & Fab	Inv 1693	04/15/96	100-106.00	294.14	104-606.00	294.14
25887	Stone, Trew & Cyphers	March Statement	04/15/96	100-106.00	3,194.38	102-632.00	1,447.02
						102-638.00	1,747.36

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25888	Tidewater Contractors Inc	Inv 15591	04/15/96	100-106.00	848.79	150-628.00	848.79
25889	U S Postmaster	Utility Permit	04/15/96	100-106.00	500.00	201-602.00	250.00
						251-602.00	250.00
25890	Viking Office Products	Misc Invoices	04/15/96	100-106.00	259.62	105-602.00	21.12
						109-602.00	160.53
						150-606.00	77.97
25891	Wildfire Pacific Inc	Inv 239696	04/15/96	100-106.00	85.60	104-606.00	85.60
25892	WW Grainger Inc	Inv 268-3754978	04/15/96	100-106.00	136.23	251-612.00	136.23
25893	Xerox Corp	March Invoices	04/15/96	100-106.00	174.00	103-606.00	106.00
						109-614.00	68.00
25894	R V Stryker	Serv Dep Refund	04/15/96	100-106.00	21.48	200-134.00	21.48
25895	Bette Bergstedt	Serv Dep Refund	04/15/96	100-106.00	40.50	200-134.00	40.50
25896	Robert Morris	Serv Dep Refund	04/15/96	100-106.00	11.05	200-134.00	11.05
25897	Cecil Wolverton	Serv Dep Refund	04/15/96	100-106.00	6.08	200-134.00	6.08
25898	Richard W Bruner	Serv Dep Refund	04/15/96	100-106.00	37.29	200-134.00	37.29
25899	Jerry L Norman	Serv Dep Refund	04/15/96	100-106.00	18.43	200-134.00	18.43
25900	Phil & Carol Hukill	Serv Dep Refund	04/15/96	100-106.00	38.92	200-134.00	38.92
25901	Paul Salzburg	Serv Dep Refund	04/15/96	100-106.00	27.68	200-134.00	27.68
25902	Steve Millard	Serv Dep Refund	04/15/96	100-106.00	50.51	200-134.00	50.51
25903	John Gimby	Serv Dep Refund	04/15/96	100-106.00	50.40	200-134.00	50.40
25904	Priscilla Parnell	Serv Dep Refund	04/15/96	100-106.00	32.54	200-134.00	32.54
25905	Roger Gabrielson	Serv Dep Refund	04/15/96	100-106.00	48.86	200-134.00	48.86
25906	Vionne Seefried	Serv Dep Refund	04/15/96	100-106.00	34.21	200-134.00	34.21
25907	Chetco Corporation	Serv Dep Refund	04/15/96	100-106.00	12.98	200-134.00	12.98
25908	John Forster	Serv Dep Refund	04/15/96	100-106.00	53.47	200-134.00	53.47
25909	Ken Kunkel	Serv Dep Refund	04/15/96	100-106.00	53.48	200-134.00	53.48
25910	Harris Beach Properties	Serv Dep Refund	04/15/96	100-106.00	26.02	200-134.00	26.02
25911	Larri Powers	Serv Dep Refund	04/15/96	100-106.00	6.13	200-134.00	6.13
25912	Gilbert Garcia	Serv Dep Refund	04/15/96	100-106.00	27.88	200-134.00	27.88
25913	Shoestrings Pre-School	Serv Dep Refund	04/15/96	100-106.00	38.57	200-134.00	38.57
25914	Paula Wiltse	Serv Dep Refund	04/15/96	100-106.00	18.38	200-134.00	18.38
25915	Coastal Real Estate	Serv Dep Refund	04/15/96	100-106.00	32.31	200-134.00	32.31
25916	Teresa Gardner	Serv Dep Refund	04/15/96	100-106.00	50.05	200-134.00	50.05
25917	Thomas Dager	Serv Dep Refund	04/15/96	100-106.00	57.57	200-134.00	57.57
25918	Nicole Schmidt	Serv Dep Refund	04/15/96	100-106.00	22.43	200-134.00	22.43
25919	Gracie Sanders	Serv Dep Refund	04/15/96	100-106.00	21.64	200-134.00	21.64
25920	Frederic Juarez	Serv Dep Refund	04/15/96	100-106.00	6.05	200-134.00	6.05
25921	Ronald Rutherford	Serv Dep Refund	04/15/96	100-106.00	18.63	200-134.00	18.63
25922	Norm/Marie Callaway	Serv Dep Refund	04/15/96	100-106.00	9.71	200-134.00	9.71
25923	Joseph & Carmen Powers	Serv Dep Refund	04/15/96	100-106.00	45.00	200-134.00	45.00
25964	Anchor Lock & Key	Inv 4694	04/26/96	100-106.00	60.00	109-606.00	60.00
25965	Brown & Caldwell	Inv 1476	04/26/96	100-106.00	256.38	903-730.00	256.38
25966	Colvin Oil	Mid April Stmt	04/26/96	100-106.00	1,057.35	103-606.00	400.76
						104-606.00	91.40
						105-606.00	33.96
						106-612.00	18.51
						150-606.00	189.62
						201-606.00	64.84
						202-606.00	121.81
						251-606.00	14.65
						252-606.00	121.80
25967	Coos-Curry Electric	March Electric	04/26/96	100-106.00	7,379.77	109-662.00	7,379.77

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25968	Curry County Clerk	Recording Fee	04/26/96	100-106.00	30.00	105-602.00	30.00
25969	Larry Curry	Reimbursement	04/26/96	100-106.00	129.23	102-658.00	129.23
25970	Daily Journal of Commerce	Ad #99945B	04/26/96	100-106.00	40.63	202-728.00	40.63
25971	Del Cur Supply	Inv32862/32883	04/26/96	100-106.00	98.58	202-608.00	49.29
						252-608.00	49.29
25972	Dynasty Software	Computer Train	04/26/96	100-106.00	250.00	201-658.00	125.00
						251-658.00	125.00
25973	Federal Express	Inv 5-787-49766	04/26/96	100-106.00	48.50	105-602.00	23.00
						107-602.00	25.50
25974	Loren S Fraser	Bail Refund	04/26/96	100-106.00	40.00	100-232.00	99.00
						100-474.00	(20.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25975	John Gifford	Sub 4/96-10/96	04/26/96	100-106.00	45.00	109-602.00	45.00
25976	Grants Pass Water Lab	March Statement	04/26/96	100-106.00	122.50	201-612.00	122.50
25977	GTE Northwest	March Phone	04/26/96	100-106.00	18.00	300-664.00	18.00
25978	Carlos H Guzman	Bail Refund	04/26/96	100-106.00	40.00	100-232.00	99.00
						100-474.00	(20.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25979	Hach Co	Inv 380030	04/26/96	100-106.00	262.75	252-612.00	262.75
25980	Bob Hagbom	Reimbursement	04/26/96	100-106.00	313.80	102-658.00	313.80
25981	Christopher B Healy	Bail Refund	04/26/96	100-106.00	40.00	100-232.00	99.00
						100-474.00	(20.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25982	HGE Inc	Inv 10439/10440	04/26/96	100-106.00	2,579.61	105-646.00	657.64
						201-724.00	1,879.47
						202-728.00	42.50
25983	Jerry Conant Janitorial	April Cleaning	04/26/96	100-106.00	500.00	109-644.00	500.00
25984	Lynn M Jones	Bail Refund	04/26/96	100-106.00	80.00	100-232.00	165.00
						100-474.00	(46.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25985	Legislative Counsel Committee	DR Laws 96 Spec	04/26/96	100-106.00	10.00	102-602.00	10.00
25986	Stacy M Morford	Bail Refund	04/26/96	100-106.00	20.00	100-232.00	99.00
						100-474.00	(40.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25987	Stephanie R Mueller	Bail Refund	04/26/96	100-106.00	40.00	100-232.00	99.00
						100-474.00	(20.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25988	Newman Traffic Signs	Inv 2046746	04/26/96	100-106.00	127.84	150-628.00	127.84
25989	Pacific Water Works	Inv 2030248	04/26/96	100-106.00	169.58	251-612.00	169.58
25990	Edward E Pierce	Bail Refund	04/26/96	100-106.00	40.00	100-232.00	99.00
						100-474.00	(20.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25991	Postage by Phone System	Meter Postage	04/26/96	100-106.00	1,000.00	350-632.00	1,000.00
25992	Sewer Equipment Co of Florida	Inv 10980	04/26/96	100-106.00	207.05	251-612.00	207.05
25993	Stadelman Electric	Inv 2535	04/26/96	100-106.00	82.00	109-624.00	82.00

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25994	United Pipe & Supply Co Inc	Supplies	04/26/96	100-106.00	478.98	251-612.00	478.98
25995	Michael Weiby	Bail Refund	04/26/96	100-106.00	40.00	100-232.00	99.00
						100-474.00	(20.00)
						100-234.00	(26.00)
						100-235.00	(13.00)
25996	WM Grainger Inc	268-377292-1	04/26/96	100-106.00	22.48	201-612.00	22.48
					91,591.18		91,591.18

*** END OF REPORT ***

STONE, TREW & CYPHERS

ATTORNEYS AT LAW

222 E. 2nd Street

P.O. Box 188

Coquille, Oregon 97422-0188

(541) 398-3171

FAX (541) 398-5723

MARTIN E. STONE
JOHN B. TREW
CAROL P. CYPHERSESTABLISHED BY
A. J. SHERWOOD
IN 1898
HARRY A. SLACK, SR.
(1900-1988)
HARRY A. SLACK, JR.
(RETIRED 1991)

TO: City Council
Tom Davis, Mayor
Tom Weldon, City Manager

FROM: Martin E. Stone *MS*
City Attorney

DATE: May 21, 1996

RE: Revision of Business License Ordinance

You will receive a proposed Ordinance that I have drafted for consideration by the Council at its regular business meeting on May 27, 1996. This Ordinance will replace Ordinance No. 80-0-334 (Business License Ordinance).

The purpose of the new Ordinance is to clarify that the business license fees imposed by the Ordinance are for revenue purposes only, and that the Ordinance is not intended to "regulate" the specific activities of those who have applied for a license. The existing Ordinance contains a number of references to "regulatory purposes". I have eliminated language that might lead to a conclusion that the primary purpose of the Ordinance is "regulatory". This issue has surfaced in a case that I prosecuted on behalf of the City. The argument was made that the language of the existing Ordinance suggests that it is for regulatory purposes and therefore void as to individuals who might be regulated by other agencies or departments of the State of Oregon. The proposed Ordinance makes it clear that the primary purpose of the ordinance is for revenue purposes, and not for regulatory purposes.

You will note from the proposed Ordinance that it follows the general format of the existing Ordinance No. 80-0-334. I have added a new Section 1 to set forth the purpose and scope of the Ordinance. I have deleted "regulatory" language from the heading of the Ordinance. I have deleted regulatory language from Section 3, Section 15 and Section 20. I have provided in Section 24 that each business day of a violation will be deemed a separate offence. I have added a Section 25 dealing with severability and validity. I have added a repealer section

X.A.1

May 21, 1996
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(Section 26) to make clear that the new law replaces the existing Ordinance, but that the existing Ordinance will continue in effect as to any person, entity or business who may still owe fees, late charges or penalties to the City under the existing business license Ordinance.

I am recommending that the City adopt this new Ordinance in order to clarify that the purpose of the business license Ordinance is for revenue objectives, rather than specific regulations of persons or entities. You will note that I have added an emergency clause so that the new Ordinance, if enacted, will go into effect immediately.

ORDINANCE NO. 96-O-518

AN ORDINANCE REGULATING—AND LICENSING CERTAIN BUSINESSES, PROFESSIONS, PURSUITS, AND OCCUPATIONS IN THE CITY OF BROOKINGS FOR REGULATORY AND REVENUE PURPOSES; FIXING THE FEES THEREFOR; PROVIDING FOR AN INCREASE OR DECREASE OF THE SAME; FIXING THE PENALTY FOR VIOLATION THEREOF; PROVIDING FOR THE ENFORCEMENT THEREOF; PROVIDING CERTAIN DEFINITIONS; PROVIDING FOR A SAVINGS CLAUSE; REPEALING ORDINANCE NO. 145 TO INCREASE THE BUSINESS LICENSE FEE TO \$50.00; 80-O-334 EXCEPT AS PROVIDED; AND DECLARING AN EMERGENCY.

Sections:

Section 1.	Purpose and Scope.
Section 2.	Definitions.
Section 3.	Employee not deemed in business - Purposes.
Section 4.	Agents of nonresident proprietors.
Section 5.	Representations - Advertisements.
Section 6.	Ability to Conduct Business - License Required - Exemptions.
Section 7.	Annual fees.
Section 8.	Daily fees.
Section 9.	Noncompliance unlawful.
Section 10.	Regular license term.
Section 11.	License period.
Section 12.	Fiscal year application.
Section 13.	City recorder to keep record.
Section 14.	Required application statements - Renewal.
Section 15.	License Certificate - Appeal to City Council.
Section 16.	Council to prescribe form of certificate.
Section 17.	Investigation of business.
Section 18.	Nontransferable - Exception.
Section 19.	License not vested right.
Section 20.	Fees are additional revenue.
Section 21.	Combination of certain businesses.

Section 22.	Certificate to be displayed.
Section 23.	Concurrent cause of suit.
Section 24.	Penalty.
Section 25.	Severability and validity.
Section 26.	Repeal of Ordinance No. 80-O-334, except as provided.
Section 27.	Emergency clause.

The City of Brookings ordains as follows:

Section 1. Purpose and Scope. The business license fees imposed by the terms of this ordinance are for revenue purposes only. Neither the acceptance of the prescribed fee nor the issuance of the applicable license shall be construed to constitute a regulation of any business activity or a permit to engage in activity otherwise prohibited by law or ordinance, or a waiver of any regulatory licensing requirement imposed by any other ordinance of the City of Brookings.

Section 2. Definitions.

A. The term "person" as used in this ordinance shall be deemed to mean and include any person, firm, copartnership, association, joint venture, syndicate, society, or domestic or foreign corporation.

B. The term "business" as used in this Ordinance shall mean and include any trade, profession, occupation or pursuit of every kind conducted in the City of Brookings for gain including, but not limited to, those businesses hereinafter identified, except the following:

(1) Any business recognized as charitable by the Internal Revenue Service under the provisions of IRC Section 501.

(2) Any business filed as a non-profit corporation under the provisions of ORS Chapter 65.

C. The respective term "proprietor" and "employer" as used in this ordinance shall be deemed to mean and include any person, as herein defined, who is engaged in any "business" as herein defined.

D. The use of any pronoun in this ordinance shall be construed as meaning and including the singular or plural thereof, and the masculine, feminine, and neuter gender, as the case may be.

E. The term "transient business" as used in this Ordinance shall be deemed to mean a business as defined in Section 2(B) above that operates from various locations in the City and has no fixed permanent location from which the business is conducted, and which shall not remain at any one location in the City, on public or private property, for more than 2 (two) hours on any single day.

F. The term "garage sale" as used in this ordinance shall be deemed to mean any public sale of new or used goods within the city limits by an individual or group of individuals from private property when the individual or group of individuals is not in the business of selling goods or is not licensed as a secondhand dealer, and when the property from which the sale is to be conducted is not within a zone permitting commercial business or if within a zone permitting commercial business is in residential use, or otherwise permitted under the provisions of this ordinance.

Section 3. Employee not deemed in business - Purposes. No person who is an employee, and whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary shall, for the purposes of this ordinance, be deemed a person engaged in business in the City of Brookings. It is declared that the purpose of this ordinance is that all license fees levied hereby and hereunder shall be borne by the employer for the privilege of doing business in the City of Brookings; and ~~for the regulation of such business~~; and for providing revenue for municipal purposes generally; and to pay the necessary expenses for carrying out the provisions of this ordinance.

Section 4. Agents of nonresident proprietors. The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this ordinance shall be liable for the payment of the license fee therefor and shall be subject to the penalties for failure to pay the same or to comply with the provisions of this ordinance to the same extent and with like effect as though such agent or agents were themselves the proprietors of such business.

Section 5. Representations - Advertisements. Any person representing himself or exhibiting any sign or advertisement to the effect that he is engaged in any of the businesses upon which a license fee is levied by this ordinance shall be deemed to be engaged in such business and shall be liable for the payment of the license fee levied hereby or hereunder, and shall be subject to the penalties for failure to pay the same or comply with the provisions of this ordinance.

Section 6. Ability to Conduct Business - License Required - Exemptions.

A. No person shall engage in, prosecute, or carry on any business within the corporate boundaries of the City of Brookings unless and until they have first obtained a license therefor and shall have paid to the City the fee required.

B. The issuance of a business license under the provisions of this Ordinance does not constitute authorization by the City to the licensee to conduct business in any manner in violation of any Ordinance or regulation of the City or any rule, regulation, order or law of the state or federal government.

C. The issuance of a license for a transient business does not constitute authorization for the conduct of that business on any public street or right of way of the City of Brookings, or other public property, unless specific authority is granted to the transient business licensee by the governing body of public entity which owns the public property. The City Manager shall have authority to grant approval for the conduct of transient business on public property and rights-of-way of the City of Brookings.

D. A business is exempt from the requirements of a business license if exempted by the provisions of any other Ordinance of the City, by the constitution and laws of the state or federal government or if exempted by the City Manager under the following circumstances:

(l) Special Events - An exemption to the business license requirements of this Ordinance may be granted by the City Manager of the City of Brookings to a business which is conducted in the City for a single annual special event only, if the business is not otherwise conducted within the City at any other time. The City Manager shall provide notice in advance of the designation of any special event qualifying for this exemption.

E. Garage sales may be conducted without obtaining a business license. However, no household may conduct more than three (3) garage sales in a one-year period, and no sale may last longer than three (3) days.

F. Sellers and purchasers of seasonally gleaned forest products such as mushrooms, wild berries, huckleberries, fern and fir boughs, cascara bark, etc., must hold a current city business license. A business license will only be issued to purchasers who transact business in conjunction with an existing commercial facility. Purchases shall be allowed either inside or outside the existing commercial structure, however, no temporary structures may be constructed to house this purchasing activity. A temporary business license will satisfy the business license requirement if the provisions of section 9 are met.

Section 7.**Annual Fees.**

The annual fee for a business license for established businesses shall be determined by the total number of employees reported on State Unemployment Report Form No. 132 by each business. New businesses licensees who have not yet filed a State Unemployment Report Form No. 132 will estimate the number of employees for the first license year.

BUSINESS LICENSE FEE SCHEDULE	
TOTAL EMPLOYEES REPORTED ON FORM NO. 132 IN APRIL OF EACH YEAR	BUSINESS LICENSE FEE FOR EACH FISCAL YEAR
0 - 10	\$ 60.00
11 - 25	\$ 100.00
26 - 50	\$ 150.00
51 - 75	\$ 300.00
76 - 100	\$ 600.00
101 - 200	\$ 1,000.00
200 +	\$ 1,500.00
For businesses located outside the City of Brookings, doing business within the City of Brookings, the fee is \$75.00.	

Business license fees are due prior to July 31 of each year. For each month that the business license fee is late, a \$10.00 penalty fee will be added. No business license will be issued without the proper license fee (and penalties, if any) being paid in full.

Section 8. Daily fees. Unless exempted by Section 6, or unless a license has been issued under Section 7, the following listed business shall pay a daily license fee to the recorder in the amounts specified opposite the respective business:

Carnival and circus	\$35.00 per day
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B. Temporary 90-Day Business License Fees. Persons doing business within the City of Brookings who are seeking a temporary business license under the guidelines of this ordinance shall first file an application with the City Recorder and pay a fee of one-fourth (1/4) of the annual business license fee for their type and size of business, or \$25.00, whichever is greater.

Persons holding a temporary business license and who do business within the city beyond the 90-day license period shall be required to pay the full annual regular business license fee.

Section 9. Noncompliance unlawful. It shall be unlawful for any person to carry on or transact any business as specified in this ordinance, without first paying to the City of Brookings the license fees herein imposed. Persons operating without a current business license shall be liable to pay a business license fee for their unlicensed work period, plus a \$10.00 late fee for each unlicensed month of the work period. If full payment is not made within 60 days of notice of payment due, the corrective action and possible penalties identified in Sections 23 and 24 of this ordinance may be pursued.

Section 10. Regular and temporary license terms. Annual business licenses are issued for a fiscal year running from July 1st of that year, to June 30th of the following year.

Temporary licenses, if issued, run for a continuous 90-day period starting the day of the temporary license issuance. There shall be no extension or renewal of a temporary business license during the fiscal year of issuance.

Section 11. **License period.** If an application is made before December 31 of the fiscal year, no license, except a temporary license or those on a daily basis, may be issued for less than a full fiscal year. Except for a temporary license, if an application is made on or after January 1 of the fiscal year to cover the period from January 1 to June 30, a license fee of one-half of the regular yearly business license fee (shown in Section 7 in the Business License Fee Schedule) shall be collected for such period or fraction thereof.

Section 12. **Fiscal year application.** On or before July 1 of each fiscal year persons doing business in the City of Brookings shall apply in writing to the City Recorder, upon forms furnished by the City, for a license to engage in business during the fiscal year. When applying for a license, the applicant shall pay the annual license fee prescribed by Section 7.

Section 13. **City recorder to keep record.** The City Recorder shall file and keep record of every application for a license made under the provisions of this ordinance.

Section 14. **Required application statements - Renewal.**

A. Before being issued a license, the applicant shall fill out a license application form provided by the City pursuant to Section 12. The form shall require a statement in writing, signed by the applicant, describing:

1. The type of business.
2. Its name and location.
3. The telephone number of the business.
4. The fire preventative measures to be taken and/or installed about the business premises location in the City of Brookings.

5. The number and location of sanitary facilities for business invitees, customers and other persons using the business premises which facilities shall be located on the site of the business being conducted in the City of Brookings, except that transient businesses shall be exempt from this requirement.

6. Other information reasonably needed to issue a license certificate.

B. Applicants who fail to pay the license fee in full or who hold a license certificate that is revoked, expired, or ceased for any reason are required to make a new and initial application.

C. So long as a business has been continually operated without interruption through June 30th of the licensing year, upon premises for which an original license certificate was issued, persons operating said business may renew a license certificate issued to them before June 30th. If a license certificate is so renewed, the certificate holder need not make a new license application; however, new applications are necessary if there has been any break in the business or its operation upon the premises during the preceding year or if there have been any changes of circumstances necessitating a correction or amendment to the information above-required as it may vary at the time of renewal from that so stated in the prior application.

D. Businesses as outlined in Subsection C of this section must pay their renewal by July 31st of each year. Failure to make full and proper payment will result in a \$10.00 per month late fee. If full and proper payment, including late fees, is not made by September 30th of the year, the City shall refer the matter of non-payment to the city attorney for enforcement of remedies under this ordinance.

Section 15. License Certificate - Appeal to City Council. Upon receipt of a completed application and the required fee, the City Recorder may request the assistance of the Chief of Police for investigation of the application with regard to the requirements of this Ordinance or with regard to the health, safety and welfare of the customers, business invitees, and citizens of the City of Brookings who may be on or about the business premises. Within 30 days after the receipt of the completed application and required fee, if the application is in order and the issuance of the license is called for under the terms of this Ordinance, the application shall be accepted and the City Recorder shall issue a City of Brookings business license. The license certificate is evidence of the applicant's privilege to conduct business in the City of Brookings in accordance with the terms of this Ordinance, and the certificate shall bear the printed signature of the Mayor and be counter-signed by the City Recorder.

If an application is incomplete or when the City Recorder determines that an applicant is not qualified for a business license in the City of Brookings, the City Recorder shall give notice of rejection by the City Recorder of the license application to the applicant in writing mailed to the address shown on the application. If an application is incomplete or when the City Recorder determines that an applicant does not meet the requirements of the ordinance for the issuance of a business license in the City of Brookings, the City Recorder shall give notice of rejection of the license application to the applicant in writing mailed to the address shown on the application. An incomplete application may be supplemented by additional required information and submitted to the City Recorder within ten days of the date of mailing of the notice of application rejection, and such additional information shall be considered as part of the original application. Upon receipt of additional information to supplement an incomplete application, the application shall then be further reviewed by the City Recorder and accepted or rejected by the City Recorder as provided above within 30 days of receipt of the submittal of additional information.

If an application is rejected by the City Recorder, the applicant may appeal the decision of the City Recorder to the City Council by filing a written notice of appeal with the City Recorder not later than ten days after the date of mailing of the application rejected by the City Recorder. The written request for appeal shall recite the facts or circumstances upon which the appeal is based.

At its next applicable Council meeting, the City Council shall hear the appeal of the applicant to the City Recorder's rejection of the business license application. Upon hearing the appeal by the City Council, the Council may affirm, modify or reverse the decision of the City Recorder, and the City Council shall enter an order upon the Minutes of the meeting in accordance with its decision. If the decision of the City Recorder is reversed, the recorder shall issue a license certificate to the applicant within five (5) working days after the date the order is entered on the Minutes. In the event the City Council affirms the decision of the City Recorder, the Minute order shall stand as the final decision of the City on the applicant's request for a business license in accordance of the terms with the application received.

Section 16. **Council to prescribe form of certificate.** The form and wording of the license certificate to be issued by the city recorder shall be prescribed by the city council; and it shall specify the name of the licensee, the type of business licensed, the location of said business, and the amount of license fee paid.

Section 17. **Investigation of business.** The chief of police and his subordinate police officers are hereby directed and empowered to investigate and examine all places of business in the City of Brookings at any and all reasonable times for the purpose of determining whether or not such business is being conducted in accordance with the terms of this ordinance.

Section 18. **Nontransferable - Exception.** No transfer or assignment of any license issued hereunder shall be valid or permitted; except that whenever any person shall sell or transfer the whole of a business for which such license has been issued, the vendee thereof shall, unless otherwise provided by ordinance, be allowed to engage in said business under the vendor's license for the balance of the fiscal year for which the vendor's license was issued.

Section 19. **License not vested right.** Nothing in this ordinance contained shall be construed as vesting in the license any contract right, or creating any contract obligation on the part of the city as to the amount of the license fee, or as to the character of the license issued hereunder; but on the contrary, it shall be construed as reserving to the city the right to increase or decrease at any time any license fee prescribed herein and to change the character of the license and term thereof.

Section 20. **Fees are additional revenue.** The license fees fixed by and collected, or to be collected, under this ordinance shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law, and also in addition to any and all license fees prescribed by other ordinances pertaining to or regulating specific businesses, occupations, amusements, utilities, trades, and other pursuits for gain.

Section 21. **Combination of certain businesses.** The conduct of a business or businesses at two or more separate and distinct locations within the city of Brookings, shall, for the purposes of this ordinance, be deemed to be a separate business or businesses; and each business shall be subject to the license tax herein provided for.

Section 22. **Certificate to be displayed.** Every person who has obtained a license as required by this ordinance for the privilege of doing business in the city of Brookings shall display the license certificate issued to him in a conspicuous place in or upon the premises where said business is conducted, except in the case of contractors, subcontractors, cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors. In the case of contractors and subcontractors, said license certificate shall be conspicuously displayed at their principal places of business in the city of Brookings; and in the case of cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors, said license certificate shall be carried on the person of the licensee or conspicuously displayed in or upon any vehicle used in the conducting of such business.

Section 23. Concurrent cause of suit. In addition to the penalty provided in Section 24, and as separate and concurrent causes of action or suit, the city of Brookings may, in any court of competent jurisdiction, sue any person who has or is engaged in business in the city of Brookings without having complied with this ordinance, for the amount of license fee payable hereunder; and also the city may in the same or a separate suit seek an injunction prohibiting such person from engaging in such business in the city of Brookings in violation of this ordinance; and in any such action or suit the city shall, if it prevails, recover in addition to its costs and disbursements a reasonable attorney's fee to be set by the court.

Section 24. Penalty. Any person or persons, association of persons, firm, corporation, or any agent or representative thereof, ~~or either of them~~ who shall engage in or carry on a business within the corporate limits of the city of Brookings, without having first applied for a license, paid the fee therefor, and obtained a license certificate in accordance with the provisions of this ordinance, shall be deemed ~~guilty of a~~ in violation of this ordinance and shall, upon conviction thereof, be punished by a fine of not more than \$500 or ~~imprisonment not to exceed 30 days in jail, or by both such fine and imprisonment~~; and no license shall be issued to any person convicted hereunder until the full amount of any fine imposed hereunder shall have been first paid. Each business day during which any business activity continues to be conducted in violation of this ordinance shall be deemed a separate offense.

Section 25. Severability and Validity. If any section, subsection, sentence, clause or word in this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause and word thereof, irrespective of the fact that any one or more section, subsection, clause or word is later declared invalid.

Section 26. **Repeal of Ordinance No. 80-O-334, except as provided.**
Ordinance No. 51-O-006, 55-O-080, 56-O-103, and 57-O-111 are repealed.
Ordinance No. 80-O-334 is hereby repealed, except to the extent that any person, entity or business may presently owe fees, late charges and penalties to the City of Brookings under Ordinance No. 80-O-334. In such instances Ordinance No. 80-O-334 shall remain effective as to such person, entity or business until all such delinquencies have been satisfied.

Section 27. **Emergency clause.** **It is hereby determined that it is in the interest of public health, safety and welfare that immediate action be taken. Therefore, an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon its passage by the city council and signing by the mayor.**

First Reading: _____

Second Reading: _____

Passage: _____

Effective Date: _____

Signed by me in authentication of its passage this _____ day of _____, 1996.

Tom Davis
Mayor

ATTEST:

Beverly S. Shields
City Recorder